

City of Riviera Beach, Florida

**OCEAN MALL LEASE TRANSFER
ANALYSIS OF THE CITY'S OPTIONS**

Prepared by

The Palm Beach Consulting Group, LLC

March 22, 2017



The Palm Beach Consulting Group, LLC

March 22, 2017

Mr. Danny D. Jones, Deputy City Manager
City of Riviera Beach, Florida
600 West Blue Heron Boulevard
Riviera Beach, Florida 33404

Dear Mr. Jones:

As a result of a request by GSF Florida Retail, LLC to transfer the Ocean Mall Amended Lease to RH2401 Ocean, LLC, the City of Riviera Beach has requested assistance at insuring that the various options it has in making a final determination have been identified and analyzed. The City administration and City Council understand the importance of a thorough "due diligence" process in evaluating the lease transfer request so that a knowledgeable decision can be made that benefits the City.

The Palm Beach Consulting Group and Paul Skyers served as the primary "Consultants" on this project. The Consultants worked closely with the City Manager's office, the City Attorney's office, and the Finance Department in preparing this review and analysis. Anderson and Carr, Inc. (appraisers) provided lease valuation services in support of the analysis. The law firm Traub Lieberman Straus & Shrewsbury LLP was instrumental in providing a detailed overview of the project from its inception, along with being instrumental in working with the City over the years to negotiate beneficial modifications to the Lease.

We appreciate this opportunity to provide these services to the City. Please contact us if you have questions or need to discuss any aspect of the work performed by us and/or our partners on the project.

Sincerely,

Arnold A. Broussard
President/Managing Member

Paul Skyers, Consultant

City of Riviera Beach, Florida Ocean Mall Lease Transfer Analysis of the City's Options

I. Introduction

This analysis was prepared at the request of the City Manager acting on behalf of members of the City Council. It is intended to give City Council members an appreciation for the history and complexities of the Lease and its associated amendments; present the possible options and associated consequences the City Council faces in determining the best approach to responding to the Lease transfer request from GSF Florida Retail LLC (GSF); and, to get an understanding of the beneficial aspects of the Lease as it has evolved over the years. Equipped with this information, members of the City Council are in a better position to make knowledgeable and reasoned decisions regarding the Ocean Mall Project. The analysis also underscores the success the City has made at improving its financial return from the Tenant and the Lease (as amended) outside of the guaranteed lease payments made by the Tenant.

This analysis is a product of the joint efforts of The Palm Beach Consulting Group, LLC (PBCG) and Paul Skyers. The two project principals are hereafter referred to as the "Consultants." The Consultants worked closely with the City Manager; City Attorney; the City's outside legal counsel, who is knowledgeable of the Lease and who was a key representative working with the City on prior amendments to the Lease; and, the City's Finance Director.

The Consultants reviewed agreements, leases and lease amendments; Ocean Mall related documents; appraisals; studies; and, all written communications, including emails and letter correspondence, made available to us in connection with the Ocean Mall project from December 2006 to the formal date of this report. We worked closely with the City Attorney's office to ensure that the City's legal positions relating to issues being discussed were identified, understood, and adhered to, where appropriate. The Consultants had no contact with GSF, RH2401 Ocean, LLC, or any of their representatives. The City Manager was our primary point of contact for the analysis. The Consultants relied upon the information from the City's representatives and any conclusions drawn by the Consultants is subject to that reliance.

II. Executive Summary

Ocean Mall is a redeveloped oceanfront retail and restaurant mall located in Riviera Beach, Florida. The project consists of four (4) buildings on an 8.5 acre site and it contains approximately 72,029 square feet of gross leasable area. The mall is approximately 48% occupied. The City and the Community Redevelopment Agency control approximately 554 parking spaces in the vicinity of the Ocean Mall.

The redevelopment of Ocean Mall began on December 18, 2006 with the approval of the initial lease for the Project; and, with the City, the CRA, and the Ocean Mall developer (D. Catalfumo) entering into required agreements including a Development and Disposition Agreement for the Project.

The initial redevelopment plan for the project included a hotel/convention facility, reconstruction of the Mall, and improvements to municipal spaces adjacent to the Mall. A successful ballot initiative by City residents in 2007 placed a five story height limitation on a possible hotel structure and it limited a land lease term to fifty years, including extensions. The initial Lease has not been characterized as a favorable lease for the City. The present Lease is owned by GSF Florida Retail LLC (GSF) and it has approximately forty years remaining in its term. A Project time line, that summarizes the major actions and contractual obligations associated with the Ocean Mall Project from 2006 through 2017, is included in this report.

There have been four amendments to the initial Lease. These Lease amendments have resulted in changes to the lease terms and conditions that have improved the City's financial position and control over important site elements. Since 2007, the City has received approximately \$1,321,363.15 in payments from GSF: \$700,000 in lease concessions; \$333,333.28 in lease penalty payments; \$206,799 in annual lease payments; and, \$81,230.87 in a parking system equipment payment.

One of the most significant concessions the City has received relates to the City gaining exclusive control of the parking at the Mall site. The City has the right to own and operate all of the parking at the site and it is not required to share any of the parking receipts with GSF. A 2015 parking study estimated the City could receive as much as \$699,000 net annual revenue from parking operations. This estimate could increase because GSF is responsible for maintaining the grounds on the Mall site.

The Lease holder is currently requesting the City's approval to transfer the Lease (as amended) to a third party, RH2401 Ocean, LLC (RH2401). RH2401 is characterized by its attorney as "a great company based in Palm Beach County with extensive experience in turning around underperforming retail malls such as the Ocean Mall." City staff conducted background checks on the principals of RH2401 Ocean, LLC and found no adverse information.

Under the current Lease (as amended), the City receives a flat annual fee of \$63,000 (as adjusted by the CPI) from the Tenant. Given what appears to be a small annual lease payment, the City Council desires to identify the options it might pursue in addressing the equity of the Lease and its associated amendments. A discussion of these options should assist the City Council in determining its strategy for addressing the Lease transfer request(s) from GSF. The options are identified as follows.

- Option 1 – The City authorizes the request by GSF Florida Retail, LLC to transfer the Ocean Mall Amended Lease to RH2401 Ocean, LLC.
- Option 2 – The City offers to purchase the Ocean Mall Amended Lease from GSF Florida Retail, LLC.
- Option 3 – The City exercises its eminent domain rights and obtains the Amended Lease from GSF Florida Retail, LLC.

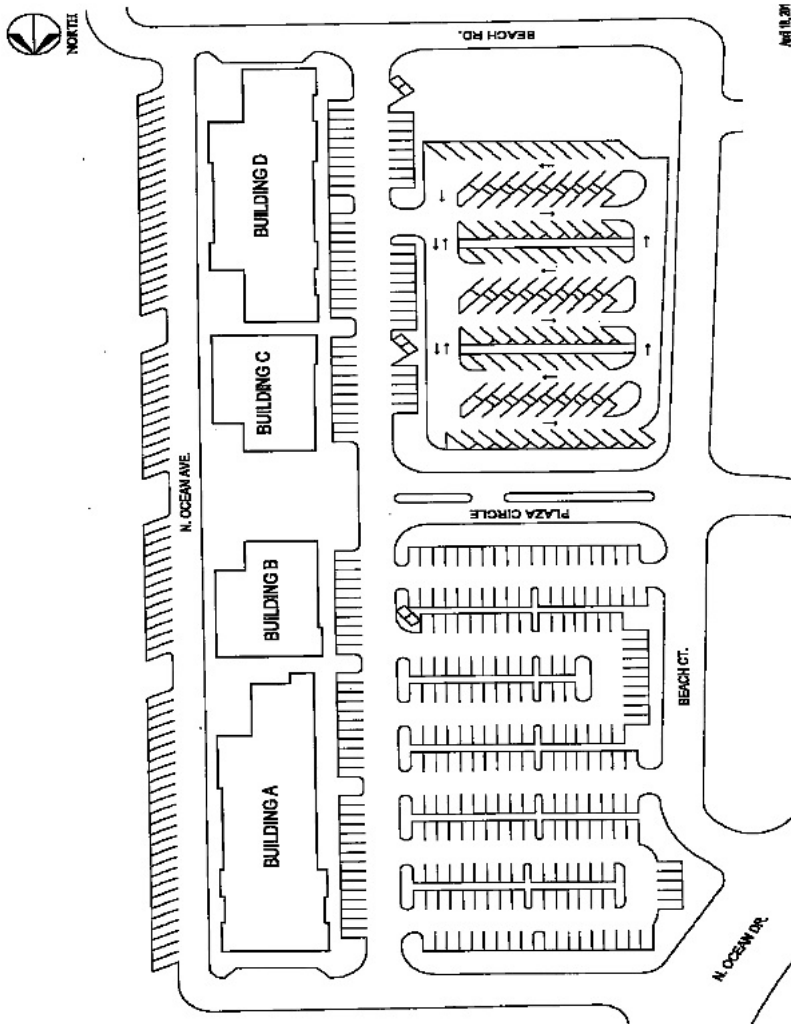
- Option 4 – The City takes no action on the current request by GSF Florida Retail, LLC to transfer the Amended Lease to RH2401 Ocean, LLC.

A discussion of each of the options is included in the body of this report. The City Attorney opined on the legal ramifications of each of the options identified.

III. Lease History

The redevelopment of Ocean Mall began in December 2006 when the City of Riviera Beach (City), the City of Riviera Beach Community Redevelopment Agency (CRA), and OMRD, Inc. (OMRD) entered into various agreements and leases for redevelopment of the site. OMRD was the corporate entity owned by D.S. Catalfumo that was the City's developer-partner for the Ocean Mall project.

The initial redevelopment plan called for rebuilding the Ocean Mall, construction of a hotel/convention facility, and improvements to certain City-owned property on the site and adjacent to the site area. The hotel was the major revenue driver for the project.



Subsequent to executing the Lease, a 2007 referendum, by citizens of Riviera Beach, that was voted on and passed, imposed a five (5) story height limitation on the hotel/convention facility and limited the term of any ground lease to fifty (50) years. Passage of the ballot initiative made the initial proposed development plan for the site financially infeasible. The height limitation and the limitation on the term of the ground lease presented an insurmountable challenge to the success of the project. Therefore, the initial approved site plan was modified to exclude plans for the hotel/convention facility.

Catalfumo lost the Ocean Mall Lease in a bankruptcy action prior to completion of the revised redevelopment plan for the Ocean Mall site. The Lease was sold in foreclosure to GSF Florida Retail LLC (GSF). GSF is not a company that specializes in the development or redevelopment of projects. Although it was always assumed that GSF was going to sell the

Lease, to do so, they needed to secure the Lease interest and obtain an extension of time for completion of required elements of the Phase I Project. At that time, the outstanding elements of the Project included the resolution of parking issues and construction of a structure identified as "Building B."

A Project time line has been developed that summarizes the major actions and contractual obligations associated with the Ocean Mall Project from 2006 through 2017. The time line contains brief summaries of the major actions and activities that occurred during the period, along with documentation of the various agreements and related amendments to agreements associated with the Project. Documentation reviewed by the Consultants include the Lease and associated amendments; independent studies and analyses; letters, emails, and other written communications between the parties; summaries of transaction activities; City Council resolutions; and, other pertinent documentation. The summaries included in the time line are not intended to be all-inclusive representations of the documents, actions, or activities to which they relate.



Ocean Mall Project Time Line			
Date	Activity	Discussion	Financial Impact
12/18/2006	City Council approved option agreement between City, CRA, and OMRD, Inc. (Catalfumo); and, a ground lease. The redevelopment of the Ocean Mall began in 2006 when City contracted with Catalfumo Construction to redevelop the Ocean Mall. Initial plan was to rebuild the Ocean Mall, build a large hotel/convention site, and construct public improvements.		Annual Lease payments of 4% of all base subtenant rents for lease years 1-25; 6% for lease years 26-50.
12/18/2006	The City, OMRD, and CRA entered into a Disposition and Development Agreement (“DDA”) setting out the responsibilities for the development of Ocean Mall in two phases (Phase I and Phase II) and certain surrounding City owned property. Hotel was major revenue driver for project.		
2007	Subsequent to executing the Lease, a referendum, by citizens of Riviera Beach, that was voted on and passed, imposed a five (5) story height limitation on the hotel/convention facility and limited the term of any ground lease to fifty (50) years. Ballot limitations made hotel portion of Project infeasible.		
04/24/2013	Catalfumo filed for bankruptcy before finishing the redevelopment project. Lease sold in foreclosure, and was bought and taken over by GSF, Florida ("GSF"). GSF Florida Retail LLC became Tenant under the Lease by virtue of being the winning bidder at the foreclosure sale held in the foreclosure action on the lien of the leasehold mortgage originally held by Branch Banking and Trust Company and subsequently assigned to GSF Trust 2011-1.		
	Immediately after foreclosure sale on the leasehold mortgage, the new Tenant GSF paid the City \$300,000 to extend the construction completion date of Phase I under the DDA on the Premises to May 31, 2013.		\$300,000
05/15/2013	First Lease Amendment Parties entered into the First Amendment to Ground Lease-Retail (the “First Amendment”) to provide GSF an extension of time to complete the Phase I construction required of the Tenant by the DDA to May 31, 2014, and further requiring the Tenant to pay City an additional \$250,000.		\$250,000
08/2013	City Council authorized assignment of Ocean Mall Ground Lease-Retail to TJAC Singer Island, LLC.		

Ocean Mall Project Time Line			
Date	Activity	Discussion	Financial Impact
01/15/2014	<p>Second Lease Amendment</p> <p>Before the end of the second extension, GSF realized it was not going to complete the required building improvements by May 31, 2014 and agreed to pay an additional \$150,000 to the City to extend the May deadline, plus relinquish a strip of parking across the Ocean Mall based upon a request from CRA.</p> <p>The parties to the Second Amendment agreed to: (a) extend the Phase I Completion Date from May 31, 2014 to March 28, 2015, and to provide Tenant with up to an additional 12 monthly extensions beyond March 28, 2015 to effectuate the Phase I completion; (b) amend Section 25(d) and Section 36 of the Lease (which was added in the First Amendment) to provide the Leasehold Mortgagee the right to enter into a new lease with City upon termination of the Lease with Tenant, pursuant to Section 36 or other Event of Default, as defined in Article 14 of the Lease; (c) provide Leasehold Mortgagee with eighteen (18) months after the Leasehold Mortgagee or its designee becomes the "Tenant" to complete construction of the Phase I Development; and (d) revise the legal description of Leased Premises to exclude the North Ocean Boulevard Strip and to encompass only the property set out in the New Legal Description.</p>		\$150,000
03/19/2014	<p>Third Lease Amendment</p> <p>Parties entered into Third Amendment amending Section 4(d) of the Lease by granting City all rights to parking revenue; which, in Article 36, extended Initial Phase I Completion Date to June 30, 2015, with final extension being June 30, 2016, after payment of \$41,666.66 per month for the twelve (12) month delay; and granted, in a new Article 37, a six (6) year parking easement which allowed Tenant to be in compliance with the parking requirements of the Lease.</p>		
02/09/2015	<p>TJAC Singer Island, LLC offers to buy lease from GSF for \$7,575,000. Transaction is never completed.</p>		
03/02/2015	<p>Fourth Lease Amendment</p> <p>Provide for a set annual lease payment of \$63,000; placed restrictions on assignments; granted permanent parking easement on the Premises; added requirement that Tenant improve Additional Parking Area and the parking areas of the leased premises; and, established parking system on the Premises paid for by Tenant. City to operate parking system and receive all parking revenue. Parking system improvements to be completed by 03/01/2017 or 12 month extension granted for payment of penalty of \$58,333.33 per month.</p>		\$63,000 per year lease payment.

Ocean Mall Project Time Line			
Date	Activity	Discussion	Financial Impact
10/17/2016	<p>Request to Transfer Lease to RH 2401 Ocean, LLC</p> <p>GSF Florida Retail, LLC made formal request to City of Riviera Beach for the City's written consent to transfer its leasehold interest in the Ocean Mall to RH 2401 Ocean, LLC. (Per Article 10 of Land Lease from the City ("lessor") and the subsequent Amendments.)</p>	Letter from Wayne M. Richards, attorney representing GSF Florida Retail LLC, addressed to City Manager and City Attorney. Stamped as received by City on 10/17/2017. Request sent to Mayor and City Council on same date.	
10/21/2016	As part of its "due diligence" process, the City requested information on RH 2401 Ocean's principals, financial backing, and experience in operating businesses such as the Ocean Mall.		
11/14/2016	GSF provides information on RH 2401 Ocean's principals and further proposes a fifth amendment to Lease.		
11/15/2016	City requested 60 day period to review documentation on RH 2401 Ocean's principals and make recommendations to City Council.		
12/06/2016	<p>Proposed Fifth Amendment to Lease</p> <p>Proposed amendment modifies provision that required installation of parking kiosks and instead provides for payment in lieu of installation and better defines parking easement grant for the additional parking area most recently addressed by Fourth Amendment.</p>		
01/09/2017	City agrees to receive lump sum payment (\$81,230.87) in lieu of GSF installing pay parking devices.		
02/01/2017	GSF again formally requests to transfer Lease to RH 2401 Ocean and invokes the transfer time provision of the Lease. Requested decision by 03/03/2017.		
02/03/2017	City Manager notifies City Council of GSF's transfer request and informs Council of 03/03/2017 decision deadline.		
03/01/2017	City Council takes no action on GSF's Lease transfer request.		
03/17/2017	GSF, through its attorney, notifies and reminds City of (a) its duty to provide consent to transfer the lease; (b) its duty to provide estoppel letters; and, (c) its duty to provide amendments that are commercially reasonable. GSF's letter states that City's failure to act on its above requests in a timely manner "constitutes a breach of our agreement and has been deleterious effect on my client's ability to successfully market and transfer the property;" and, requests that City act on the above matters by March 20, 2017.		

Ocean Mall Project Time Line			
Date	Activity	Discussion	Financial Impact
03/20/2017	City Attorney responds to GFS's attorney's email dated 03/17/2017. Informs attorney that assignment and subletting notices must be "sent by overnight courier company delivery to the City's representative" and that "Notices" shall be "in writing and sent by U.S. certified or registered mail, postage prepaid, or by overnight delivery service providing proof of receipt, addressed if to Landlord..."		

IV. Discussion of Options

Working with the City Manager and the City Attorney, the Consultants identified four (4) major "options" the City might pursue in addressing the equity of the Lease and its associated amendments. A discussion of these options, along with a presentation of other factors related to the Ocean Mall Project, should assist the City Council in determining its strategy for addressing the Lease transfer request(s) from GSF.

Based on input by the City Manager, the following have been identified as "options" the City has in performing a thorough "due diligence" of the request by GSF Florida Retail, LLC to transfer the Ocean Mall Amended Lease to RH2401 Ocean, LLC. Those options are were identified as follows.

- Option 1 – The City authorizes the request by GSF Florida Retail, LLC to transfer the Ocean Mall Amended Lease to RH2401 Ocean, LLC.
- Option 2 – The City offers to purchase the Ocean Mall Amended Lease from GSF Florida Retail, LLC.
- Option 3 – The City exercises its eminent domain rights and obtains the Amended Lease from GSF Florida Retail, LLC.
- Option 4 – The City takes no action on the current request by GSF Florida Retail, LLC to transfer the Amended Lease to RH2401 Ocean, LLC.

A discussion of each of the above options follows.

Option 1 – The City authorizes the request by GSF Florida Retail, LLC to transfer the Ocean Mall Amended Lease to RH2401 Ocean, LLC.

According to Section 2 of the FOURTH AMENDMENT TO GROUND LEASE – RETAIL OCEAN MALL, GSF and the City agreed that Article 10 entitled "ASSIGNMENT AND SUBLETTING" subsection (b) was amended to read as follows.

If the Tenant sells, assigns or transfers this Lease (collectively, an "Assignment"), to any non-Affiliated Person, then the Tenant must obtain the City's consent and the City agrees that: (1) such consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing and without limitation on other grounds for which the City may reasonably withhold or delay consent, it shall specifically be deemed reasonable by the parties for the City to refuse consent to any sale, assignment or transfer of this Lease on the basis that the assignee, buyer or transferee (either personally or in the case of an entity, either the entity or any of its principals, members or shareholders) has a history of any actually filed litigation in which the assignee, buyer or transferee (either personally or in the case of an entity, either the

entity or any of its principals, members or shareholders) has been adverse to the City, and (ii) if the City has not responded to the Tenant's request for such consent within thirty (30) days of receipt of such request (sent by overnight courier company delivery to the City's representative), then such consent shall automatically, immediately and irrevocably be deemed given on the thirty-first (31st) day following the delivery of Tenant's request for such consent.

On October 17, 2016, GSF asked the City to transfer its interest in the Lease to RH 2401 Ocean, LLC. It also called for the City to not install its pay parking system for five (5) years from signing this proposed fifth amendment to the Lease or until the Leased Premises was 95% leased. GSF also wanted to have the legal description of the leased premises updated. On October 21, 2016, the City asked GSF for background information on RH2401 Ocean's principals, their financial backing, and their experience in operating businesses such as the Ocean Mall. The information was provided to the City on November 14, 2016. On December 6, 2016, GSF made its proposed fifth amendment to the Lease.

City staff conducted background checks on the principals of RH2401 Ocean, LLC (Duncan Hillsley, W. Thomas Duncan, and Shane Hillsley) given basic information provided to it by GSF. The City Finance Director performed a limited review of the principals using financial records available to the public. The City Attorney's office researched the court records for any existence of litigation between the Ocean Mall's proposed "new" principals and the City. There has been no history of any litigation in which the proposed transferees or any of its principals has taken a position in litigation adverse to the City.

On February 1, 2007, the GSF made a renewed request of the City to transfer its Lease to a third-party entity, RH2401 Ocean, LLC. This request represented a simple transfer of the Lease with no further contingencies. This request substantially differed from GSF's earlier transfer request dated October 17, 2016.

As of March 20, 2017, GSF has not opted to exercise the default option of the Lease. As stated in their letter to the City dated December 21, 2016, GSF and RH2401 Ocean desire to obtain an affirmative approval from the City as opposed to an approval by default. However, in an email from GSF's attorney to the City Attorney dated March 17, 2017, GSF's attorney reminded the City of its "affirmative duty" to cooperate timely with the following:

1. City's duty to provide consent to transfer of lease;
2. City's duty to provide estoppel letters; and,
3. City's duty to provide amendments that are commercially reasonable.

The email further stated that "The City's failure to provide the above three (3) items timely constitutes a breach of our agreement and has been deleterious effect on my client's ability to successfully market and transfer the property. I sincerely hope and request that our request for the consent to transfer, our request for an amended memorandum of lease and finally our request for completion of the estoppel be completed on or before March 20, 2017." The consequences of further inaction by the City beyond March 20th were not specified in the email.

Discussion by the City Attorney

The City Attorney has reviewed the Lease and has made the following determination. In a letter to the Consultant dated March 14, 2017, the City Attorney expressed his opinion as follows.

Under the Ocean Mall lease agreement the City has a duty to consent to the transfer or assignment in a timely manner (i.e., without unnecessary delay) unless there is a demonstrable reason provided not to approve the transfer. Dissatisfaction with the terms, conditions and obligations of the City as Landlord and the Lessee GSF or its intended transferee simply cannot be a reason not to permit the transfer because the City is already legally bound by the terms of the lease.

In the absence of a justifiable reason for not approving the requested lease transfer, the City could be subject to a breach of contract action for damages that GSF could demonstrate were the result of the City's failure to consent to the requested transfer or to do so in a timely manner.

Authorization to Transfer Lease

If the City authorizes the transfer of the Lease as requested by GSF, the City and GSF would have to document in the public record agreed on provisions relating to the legal descriptions of the ground lease and the parking easement.

Option 2 - The City offers to purchase the Ocean Mall Amended Lease from GSF Florida Retail, LLC.

Under this option, the City makes an offer to purchase the Lease from GSF.

Section 28 (Landlord's Option To Purchase) of the Lease provides a mechanism for the City to purchase the Lease from the Tenant. The lease provision gives the City a "one-time option" to acquire the Tenant's rights under the Lease and any buildings and/or site improvements as may exist on the Leased Premises" at the end of the thirtieth (30th) year of the Lease term. The Lease provides a mechanism for determining the amount of the purchase price. This is the only purchase option specifically provided to the City in the Lease, where the City is guaranteed an opportunity to purchase the Lease.

Alternatively, the City could offer to purchase the Lease from GSF in a manner similar to that used by RH2401 Ocean, LLC. A willing buyer and a willing seller agree upon the terms of a lease sale and transfer by a commercial sale's transaction.

This option is problematic because GSF has already entered into an agreement to sell the Lease to RH2401 Ocean, LLC. Since both parties are considered sophisticated buyers and sellers, the parties are presumed to have entered into a commercial sales agreement. Unless the parties agree to vacate their agreement, the City places itself into a precarious legal position if, under the

circumstances, it makes an offer to GSF to purchase the property, while GSF still has a binding agreement in place with RH2401 Ocean.

Discussion by the City Attorney

In a letter to the Consultant dated March 14, 2017, the City Attorney expressed his opinion regarding the City making an offer to purchase the Lease from GSF. His comments follow.

Alternatively, assuming an agreement between GSF and the RH2401 Ocean, LLC to transfer the existing lease, action on the part of the City to try to purchase the current agreement to be transferred could be the basis of an action by either, or both, GSF as Lessee and RH2401 Ocean, LLC for tortious interference with an advantageous business relationship. The legal issues being:

Whether the City interfered with GSF's business relations with Transferee by inducing or otherwise causing Transferee not to enter into a contract with GSF and not to continue doing business with GSF and to terminate or bring to an end a contract which Transferee was bound to continue with GSF.

Whether the City interfered with the Transferee RH2401 Ocean, LLC's business relations with GSF by inducing or otherwise causing GSF not to enter into a contract with Transferee and not to continue doing business with Transferee and to terminate or bring to an end a contract which GSF was bound to continue with Transferee.

The cost of litigation must be factored into the cost of acquiring the Lease from GSF. If successful in litigation and the City is given the opportunity to purchase the Lease from GSF, the City would be required to have immediate funds on hand for the purchase. The City would incur other costs if it controlled the Ocean Mall property. These expenses include, but are not limited to, the following.

- Operation of a property management office and related staff.
- Operation of a sales office
- Site maintenance
- Insurance
- Lease concessions to prospective tenants
- Funds to perform new tenant build-outs
- Marketing

In addition to the above costs, the Ocean Mall is a non-performing asset that would require an experienced operator like RH2401, LLC to manage and operate the site to insure maximum revenue generation opportunities and control over expenses.

Option 2 requires PBCG to analyze the full financial impact to the City of Riviera Beach if it were presented with an opportunity to acquire the Ocean Mall's leasehold interest from GSF Florida Retail, LLC. Accordingly, the Consultant made the following assumptions to complete the assigned analysis:

- GSF Florida Retail, LLC. and the City settle on an agreeable price for the leasehold interest that will compensate both GSF Florida Retail, LLC and RH 2401 Ocean, LLC for all interests that will need to be addressed as a part of such a transaction.
- The City or the City in conjunction with a joint venture partner will incur in excess of \$7 Million in debt to complete the transaction – it is further assumed that the debt would be financed over thirty five years at an interest rate of 6%.
- A target rental rate of \$24.87 per square foot will be utilized for the Ocean Mall's prospective tenants (the Mall's current Agent, Urban Retail Properties, LLC, is asking for rental rates that go as high as \$31.25 per square foot).
- With proper market positioning of the Ocean Mall (giving it a "sense of place"), the property should achieve 80% occupancy with eighteen months. Its current occupancy rate is 48%, Urban Retail Properties, LLC claims to have an additional 5,793 square feet under Letters of Intent to Lease agreements.

Here is a summary of the Consultant's first year projections (based on the preceding assumptions):

	70% Occupancy	80% Occupancy	90% Occupancy
Annual Net Rental Revenue	\$ 1,266,505	\$ 1,445,641	\$ 1,624,777
Total Operating Expenses	1,153,408	1,153,408	1,153,408
Debt Service	478,959	478,959	478,959
Net Cash Flow	(365,863)	(186,727)	(7,591)

Cashflows remain negative for a fifteen-year duration in both the 70% and 80% occupancy scenarios, but they breakeven in the second year of the 90% scenario. Much of the risk in this mall's success will be understandably contingent on the management team's ability to turnaround the mall's prior performance and achieve 90% occupancy. There is, obviously, very little margin for error, thereby encouraging a high degree of prudence if this particular alternative is pursued.

Detail spreadsheets documenting the three (3) projection scenarios above are included in Exhibit G (Ocean Mall Rental Revenue Projections and Summary Operating Budgets).

Option 3 - Document the implications of the City's exercise of its eminent domain rights to obtain the Amended Lease from GSF.

Eminent domain is the power of the government to take private property. The government may only take private property that is necessary for a public purpose and is required to pay "full compensation" for the taking of private property. Private property referred to in an eminent domain procedure typically refers to real property. In the current situation, the City of Riviera Beach owns the subject property (Ocean Mall). The interest to be acquired, that is the basis for this condemnation discussion, is the Lease between the City of Riviera Beach and GSF Florida Retail, LLC.

Discussion by the City Attorney

The City Attorney has researched the question of "condemning" the Lease and has made the following determination. In a letter to the Consultant dated March 14, 2017, the City Attorney expressed his opinion as follows.

Eminent domain actions normally are concerned with taking private property for a public purpose. In the instant matter, the City already owns the property. Unless the City can operate the property successfully, any attempt to condemn the leasehold and turn it over to a third party to operate would be subject to a challenge on the basis that the taking was not for a "public purpose" (i.e., the public purpose of taking the lease from one private entity to be given to another private entity to operate is subject not readily apparent).

Assuming the ability to condemn the leasehold interest, because the City is, in fact, the Landlord, any judicial proceedings to condemn the leasehold interest may be actionable as a breach of contract, and more specifically, a breach of the implied covenant of good faith and fair dealing under the lease agreement based upon the fact that there is an existing contract between the parties and the condemnation of the Lessee's interest by the Landlord would unfairly interfere with Lessee GSF's rights and entitlements under the contract. Any attempt to condemn the leasehold interest held by GSF would probably result in a counter claim for specific performance of the lease. An additional problem with a proposed condemnation action is that the City would bear the legal costs and fees for our prosecution of the claim and GSF's defense of the condemnation suit.

Irrespective of the foregoing issues, the acquisition of the property by any means would require that the Lessee be paid "just compensation" for the value of the lease agreement being acquired by the City.

Conclusion:

Eminent domain does not appear to be a viable alternative for the City to pursue.

Option 4 - The City takes no action on the current request by GSF Florida Retail, LLC to transfer the Amended Lease to RH2401 Ocean, LLC.

According to Section 2 of the FOURTH AMENDMENT TO GROUND LEASE – RETAIL OCEAN MALL, GSF and the City agreed that Article 10 entitled “ASSIGNMENT AND SUBLETTING” subsection (b) was amended to read as follows.

If the Tenant sells, assigns or transfers this Lease (collectively, an "Assignment"), to any non-Affiliated Person, then the Tenant must obtain the City's consent and the City agrees that: (I) such consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing and without limitation on other grounds for which the City may reasonably withhold or delay consent, it shall specifically be deemed reasonable by the parties for the City to refuse consent to any sale, assignment or transfer of this Lease on the basis that the assignee, buyer or transferee (either personally or in the case of an entity, either the entity or any of its principals, members or shareholders) has a history of any actually filed litigation in which the assignee, buyer or transferee (either personally or in the case of an entity, either the entity or any of its principals, members or shareholders) has been adverse to the City, and (ii) if the City has not responded to the Tenant's request for such consent within thirty (30) days of receipt of such request (sent by overnight courier company delivery to the City's representative), then such consent shall automatically, immediately and irrevocably be deemed given on the thirty-first (31st) day following the delivery of Tenant's request for such consent.

Article 21. “NOTICES”

All notices hereunder shall be in writing and sent by United States certified or registered mail, postage prepaid, or by overnight delivery service providing proof of receipt, addressed if to Landlord,....

As a matter of law, Parties enjoy the fundamental principle to make contracts and have them enforced without being re-written by the courts. It follows then, with greater force of reason, that parties in a purely common law bond are entitled to have such plain and unambiguous terms of the agreement enforced.

On October 17, 2016, GSF asked the City to transfer its interest in the Lease to RH 2401 Ocean, LLC. It also called for the City to not install its pay parking system for five (5) years from signing this proposed fifth amendment to the Lease or until the Leased Premises was 95% leased. GSF also wanted to have the legal description of the leased premises updated. On October 21, 2016,

the City asked GSF for background information on RH2401 Ocean's principals, their financial backing, and their experience in operating businesses such as the Ocean Mall. The information was provided to the City on November 14, 2016. On December 6, 2016, GSF made its proposed fifth amendment to the Lease.

On February 1, 2007, the GSF made a renewed request of the City to transfer its Lease to a third-party entity, RH2401 Ocean, LLC. This request represented a simple transfer of the Lease with no further contingencies. This request substantially differed from GSF's earlier transfer request dated October 17, 2016. The City Council did not act on the request within the 30 day time frame specified in the Lease.

As of March 20, 2017, GSF has not opted to exercise the default option of the Lease. As stated in their letter to the City dated December 21, 2016, GSF and RH 2401 Ocean desire to obtain an affirmative approval from the City as opposed to an approval by default. However, in an email from GSF's attorney to the City Attorney dated March 17, 2017, GSF's attorney reminded the City of its "affirmative duty" to cooperate timely with the following:

1. City's duty to provide consent to transfer of lease;
2. City's duty to provide estoppel letters; and,
3. City's duty to provide amendments that are commercially reasonable.

The email further stated that "The City's failure to provide the above three (3) items timely constitutes a breach of our agreement and has been deleterious effect on my client's ability to successfully market and transfer the property. I sincerely hope and request that our request for the consent to transfer, our request for an amended memorandum of lease and finally our request for completion of the estoppel be completed on or before March 20, 2017." The consequences of further inaction by the City beyond March 20th were not specified in the email.

Discussion by the City Attorney

The City Attorney reviewed the Lease and made the following determination. In a letter to the Consultant dated March 14, 2017, the City Attorney expressed his opinion as follows.

Under the Ocean Mall lease agreement the City has a duty to consent to the transfer or assignment in a timely manner (i.e., without unnecessary delay) unless there is a demonstrable reason provided not to approve the transfer. Dissatisfaction with the terms, conditions and obligations of the City as Landlord and the Lessee GSF or its intended transferee simply cannot be a reason not to permit the transfer because the City is already legally bound by the terms of the lease.

In the absence of a justifiable reason for not approving the requested lease transfer, the City could be subject to a breach of contract action for damages that GSF could demonstrate were the result of the City's failure to consent to the requested transfer or to do so in a timely manner.

V. Lease Revenue and Other Payments

The City has received various payments from GSF associated with the Ocean Mall Lease since 2007. During the process of negotiating amendments to the original Lease, City staff, working with outside legal counsel, were able to obtain major concessions and payments from the Tenant that significantly improved the financial return the City received from the Tenant under the terms of the Lease. Payments have been received in the following types and amounts.

Lease Related Payment Receipts	
Annual Lease Payments	\$ 206,799.00
Lease Penalty Payments	333,333.28
Lease Concession Payments	700,000.00
Parking System Payment	81,230.87
Total Payment Receipts	\$ 1,321,363.15

The following schedule shows the detailed payments received by the City in each of the above four (4) categories.

Ocean Mall
Lease Concession Payments, Lease Penalty Payments,
Annual Lease Payments, and Parking System Payment

Lease Concession Payments	
04/03/2013	\$ 300,000.00
05/31/2013	250,000.00
01/31/2014	150,000.00
Sub-Total	\$ 700,000.00
Lease Penalty Payments	
07/02/2015	\$ 41,666.66
08/19/2015	41,666.66
09/03/2015	41,666.66
10/05/2015	41,666.66
11/01/2015	41,666.66
12/01/2015	41,666.66
01/05/2016	41,666.66
02/02/2016	41,666.66
Sub-Total	\$ 333,333.28
Annual Lease Payments	
2007	\$ 29,207.00
2008	18,183.00
2009	2,563.00
2010	5,162.00
2011	14,828.00
2012	23,027.00
2013	27,325.00
2014	27,325.00
2015	27,679.00
2016	31,500.00
Sub-Total	\$ 206,799.00
Parking System Payment	
01/30/2017	\$ 81,230.87
TOTAL	\$ 1,321,363.15

VI. Lease Valuation

The Ocean Mall was the subject of two appraisals in 2015. One appraisal, which was performed by Anderson & Carr is of the entire Ocean Mall site . The valuation date was February 19, 2015 and the report date was March 3, 2015. The other report, which was prepared by Lawson Appraisal Service, LLC , was of the former hotel site. It had a valuation date of July 14, 2015. The value conclusions from the two appraisals are as follows.

Appraiser	Date	Value Type	Amount
Anderson & Carr, Inc.	02/19/2015	As-Stabilized Fee Simple Market Value	\$ 10,000,000.
		As-Is Market Value of the Leasehold Interest	\$ 7,500,000.
		Market Value of the Leased Fee Interest in the Land.	\$ 1,000,000.
Lawson Appraisal Service, LLC	07/14/2015	Market Value of Fee Simple Estate of the Property (Hotel site only)	\$ 5,250,000.

The Anderson & Carr appraisal was performed before the construction of "Building B," the last structure to be built in compliance with the Lease agreement. Anderson & Carr is in the process of appraising the entire site, including Building B, which was completed in 2016. As of March 22, 2017, the appraisal was not completed and the Lease valuation results were not available for inclusion in this report.

VII. Ocean Mall Parking

During the course of evaluating the value of Lease concessions requested by GSF over the past few years, City staff realized that the primary revenue driver in the Ocean Mall Lease was in potential parking revenue. The Tenant's desire to amend the Lease so it could be in compliance with certain Lease provisions gave staff the opportunity to extract certain concessions from the Tenant. The execution of the Fourth Lease Amendment on March 2, 2015 gave the City complete control of parking at the Ocean Mall. The Tenant was obligated to pay for a parking system that would be owned and operated by the City. The City would receive all revenue generated by the parking operation.

On January 9, 2017, the City agreed to accept a payment from GSF of \$81,230.87 in lieu of GSF installing the pay parking devices called for in the Fourth Lease Amendment.

Walker Parking Consultants prepared a report titled "Ocean Mall Parking Access and Revenue Control Strategy" for the Riviera Beach Community Redevelopment Agency. The report is dated March 2015. The report focused on parking access revenue and control systems, as well as pricing strategies should paid parking be implemented at the Ocean Mall. The City is projected to receive significant revenue if a paid parking program is implemented at the Mall. It is estimated that the City could receive as much as \$699,000 net annual revenue from parking operations, with increases over time.

OCEAN MALL PARKING AREAS

The parking areas in and around Ocean Mall are shown in the following figure. These parking areas are currently free and unrestricted.

Figure 2: Ocean Mall Parking Areas



The following schedule summarizes the Mall's parking spaces by location.

Ocean Mall Parking Areas	
Parking Location	Parking Spaces
Beach Front	65
Service Road	19
Service Road	40
Ocean Mall North Lot	235
Ocean Mall South Lot	90
Beach Court	28
Ocean Mall West	77
Total	554

Source: Walker Parking Consultants Study, 2015

Mr. Skyers was asked by two City Council members to evaluate the conclusions of the Walker Parking Consultants study. His analysis is included as an addendum to this report in Section IX (Walker Parking Consultants Study Evaluation - Paul Skyers, Consultant).

VIII. Responses to Ocean Mall Project Questions

The following are responses to miscellaneous questions that have been raised during the course of this analysis.

1. There have been no material breaches of the Lease and the lease holders are in compliance with the terms and conditions of the Lease. Additionally, with the exception of providing a response to GSF's transfer request dated February 1, 2017, the City is in compliance with the terms and conditions of the Lease.
2. The City incurs no cost for grounds maintenance, etc., for all the leased properties and grounds as part of this Lease.
3. The Lease does not require a capital fund that this leaseholder contributes into for the purposes of additional capital investments or maintenance funds to the site or to repair items that have become functionally obsolete. However, there are no other capital improvements

required by the Lease and the Tenant is responsible for the maintenance and upkeep of all improvements on the site.

4. The lease is a triple net lease with the Tenant responsible for all costs and expenses associated with occupying the site.

5. The staff is not aware of a business plan for the site nor is one required of the Tenant.

6. Because of the Fourth Lease Amendment, the City has complete control of the parking system, for which the Tenant has paid the City \$81,231, and all revenue derived from parking on the site.

7. The City Administration, Finance Department, Insurance department, and Law Department have conducted due diligence on the firm looking to acquire the ground lease and its principals, to ensure that they have the financial capital and business expertise to enhance the success of the Ocean Mall.

8. The prospective new Tenant (RH 2401 Ocean, LLC) has made a formal presentation to the City Council addressing their plans for the Ocean Mall. No new facilities or capital improvements have been proposed, nor are any required by the Lease. The City should not be negatively impacted by any improvements to the Ocean Mall site, nor should the City be required to provide any capital or operating costs associated with the Ocean Mall project.

IX. Walker Parking Consultants Study Evaluation - Paul Skyers, Consultant

After carefully reviewing the March 10, 2015 Parking Access Strategies for the Ocean Mall on Singer Island that was compiled by Walker Parking Consultants (WPC), I determined that WPC could've arrived at a significantly greater Total Annual Net Revenue projection than the \$1,027,200 (see the following extract).

Figure 5: Yearly Revenue

Beachside	\$ 172,000
Ocean Mall Service Drive	155,000
Ocean Mall	628,000
Resident Permits (\$40 each)	28,000
Seasonal Resident Permits (\$60 each)	4,200
Non-Resident Permits (\$100 each)	10,000
Ground Lease Revenue	30,000
Total Net Revenue	\$ 1,027,200

Source: Ocean Mall Parking Access and Revenue Control Strategy, Walker Parking Consultants, March 2015

In fact, I used the same line items and parking rates that Walker Parking Consultants utilized, but with the following parking space demand assumptions:

**Projected Occupancy Rate Assumptions for the Ocean Mall Parking Lots
(per Paul Skyers)**

	No. of Spaces	Sun	Mon	Tue	Wed	Thur	Fri	Sat
Beachside	65	90%	35%	15%	20%	35%	70%	90%
Ocean Mall Service Road	49	90%	35%	15%	20%	35%	70%	90%
Ocean Mall Parking Lot	316	90%	35%	15%	20%	35%	70%	90%

These assumptions generated topline annual Parking Revenue projections of \$1.65 Million. When combined with the other, less significant, revenue line items (Parking Permits & Ground Lease Revenue), the Projected Total Net Revenue is approximately \$1.73 Million. It should be noted that whereas WPC chose to use a graduated pricing approach in the Ocean Mall Parking Lot, I chose to use a flat across-the-board pricing approach for all parking spaces; this approach was more appropriate because the difference between WPC's graduated pricing and its premium pricing was not significantly large enough to induce patrons to perceive the value in paying a premium for utilizing Beachside parking. For the purposes of this analysis I adopted a very conservative posture in forecasting the Ocean Mall's Revenue and discount its calculated figures by a 20% forecasting margin error thereby projecting the Ocean Mall's:

Annual Total Net Revenue = \$1,380,271

Assuming that the City may have to bear the financing cost of the necessary Capital Equipment (\$376,500 @ 8% for 7 years), I projected:

Annual Operating Expenses = \$360,416

Thereby generating a projected:

Annual Net Operating Income = \$1,019,855

X. Exhibits

- Exhibit A Ocean Mall Ground Lease (12/18/2006)
- Exhibit B First Amendment To Ground Lease - Retail, Ocean Mall (05/15/2013)
- Exhibit C Second Amendment To Ground Lease - Retail, Ocean Mall (01/2014)
- Exhibit D Third Amendment To Ground Lease - Retail, Ocean Mall (03/2014)
- Exhibit E Fourth Amendment To Ground Lease - Retail, Ocean Mall (03/2016)
- Exhibit F Walker Parking Consultants - Ocean Mall Parking Access and Revenue Control Strategy (03/2015)
- Exhibit G Ocean Mall Rental Revenue Projections and Summary Operating Budgets

Exhibit A

Ocean Mall Ground Lease (12/18/2006)

GROUND LEASE – RETAIL

This Ground Lease (the "Lease"), is made and entered into as of Dec. 18, 2006, by and between OMRD, LLC, a Delaware limited liability company¹ ("Tenant"), and CITY OF RIVIERA BEACH, FLORIDA, a Florida municipal corporation ("Landlord" or "City").

WITNESSETH:

WHEREAS, THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY (and referred to as the "Agency"), created by the City of Rivera Beach pursuant to Chapter 163, Part III of the Florida Statutes, THE CITY OF RIVIERA BEACH, FLORIDA, a Florida municipal corporation (and referred to in this Agreement as the "Landlord"), and OMRD, LLC, a Delaware Limited Liability Company, its successors and assigns, entered into a Disposition and Development Agreement, as of the date hereof (the "DDA"); and

WHEREAS, the DDA contemplates the Landlord and Tenant would enter into a lease with respect to the Phase I Development, as such term is defined in the DDA; and

WHEREAS, this Lease is the lease that is contemplated by and referred to in the DDA as the Phase I Lease.

WITNESSETH:

In consideration of the Rent to be paid by Tenant and the agreements hereinafter provided to be performed by the parties hereto, Landlord hereby leases to Tenant, and Tenant hereby accepts and rents from Landlord, the premises hereinafter described, for the period, at the rental and upon the terms and conditions hereinafter set forth:

1. **LEASED PREMISES.** Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, for the term set forth in Article 3 below, that certain real estate located in the City of Riviera Beach, County of Palm Beach, State of Florida, containing approximately 370,228 square feet of land, which real property is more particularly described in Exhibit "A", together with all improvements, appurtenances, easements and privileges belonging thereto (the "Leased Premises"), subject to such matters of title set forth in Exhibit "B" attached hereto ("Permitted Exceptions"). That certain Lease Agreement, dated December 29, 1972, between the Landlord and Shelter Programs Company, as amended and supplemented, with respect to a portion of the Leased Premises, is referred to herein as the "Existing Lease."

The terms "Buildings" and "Site Improvements", as used herein, shall mean the building(s) and those improvements, respectively, that Tenant may construct from time to time on the Leased Premises, all as hereinafter provided. The term "Existing Improvements" shall

mean the buildings and other improvements existing on the Leased Premises as of the date of this Lease.

2. RENT.

(a) Rent. The Landlord shall receive annual lease payments calculated as a percentage of the Base Subtenant Rent paid by all Subtenants at the Leased Premises in accordance with the following percentage amounts:

(i) Four percent (4%) for lease years one (1) through twenty-five (25);
and

(ii) Six percent (6%) for lease years twenty-six (26) through fifty (50).

(Collectively the "Percentage Rent"). Such Percentage Rent shall be paid annually on April 1 of each year following the year to which such Percentage Rent relates. Percentage Rent shall be prorated for partial years.

"Base Subtenant Rent" shall mean the base rental income received by the Tenant from each Subtenant pursuant to such Subtenant's sublease. In addition to Base Subtenant Rent a sublease with a subtenant may also provide that the Subtenant must pay what is customarily termed "Common Area Maintenance" charges, this is the additional amount charged to the Subtenant to cover such Subtenant's share of other costs and expenses commonly allocated to the operation and maintenance of the Leased Premises (*i.e.*, taxes, utilities, insurance, capital improvements (excluding the costs of initially constructing the Buildings and Site Improvements), maintenance, repairs).

Tenant shall not be permitted to designate any portion of its Base Subtenant Rent as Common Area Maintenance charges and Landlord shall not receive any Percentage Rent with respect to any Common Area Maintenance charges.

Rent used in this Lease shall mean Percentage Rent and any Additional Rent (as hereinafter defined).

(b) Net Lease. It is the purpose and intent of Landlord and Tenant that the Percentage Rent herein reserved shall be absolutely net to Landlord so that this Lease shall yield net to Landlord the Percentage Rent to be paid during the term of this Lease without any diminution, reduction, deduction, counterclaim, setoff or effect whatsoever, and that all costs and expenses including, but not limited to real estate taxes, special assessments, sales taxes, personal property taxes, licenses and permits, intangible taxes, insurance, utilities, maintenance, repairs and obligations of every kind or nature whatsoever relating to the Leased Premises (including any personal property used in the operation thereof) which may arise or become due during the term of this Lease (collectively, "Additional Rent"), shall be paid by Tenant directly to the parties who are owed such amounts and that Landlord shall be indemnified and saved harmless by Tenant from and against the same. Upon the non-payment of an item of Additional Rent, after expiration of applicable notice and grace periods, Landlord shall have the right and remedies reserved herein for the non-payment of the Percentage Rent. Notwithstanding the foregoing,

Tenant shall pay the real estate taxes directly to the proper taxing authorities as provided herein, and the real estate taxes shall thereafter no longer be Additional Rent, unless Tenant fails to pay or cause said real estate taxes to be paid before delinquency, and Landlord thereafter pays same, in which event Tenant shall reimburse Landlord, as Additional Rent, for such tax payment.

(c) Method and Place of Payment: Late Payment. Until further notice by Landlord to Tenant, Percentage Rent checks shall be payable to and mailed to: City of Riviera Beach, 600 W. Blue Heron Boulevard, Riviera Beach, FL 33404, or payable by wire transfer of funds pursuant to wiring instructions provided by Landlord to Tenant upon Tenant's request. Landlord shall, prior to the Effective Date, provide Tenant with a completed IRS Form W-9. Any successor to Landlord shall likewise provide Tenant with such completed IRS Form W-9.

Except as otherwise specifically provided herein, all Rent shall be paid without notice or demand. Rent also may be paid by wire transfer of immediate funds in accordance with instructions as Landlord may provide by notice to Tenant. If Tenant shall fail to make any payment of Rent within fifteen (15) days after the same shall be due, the late payment shall bear interest from the date due until the date paid at a daily rate (the "Late Charge Rate") equal to the lesser of (a) two percent (2%) per annum in excess of the prime rate (the "Prime Rate") in effect from time to time at Citibank, N.A., or the prime rate of any major banking institution doing business in Florida, as selected by Landlord, if such bank is not in existence or has not established a prime rate, and (b) the maximum interest rate permitted by law. All interest payable under this Section shall be deemed Percentage Rent and shall be due and payable by Tenant immediately upon demand.

3. TERM. The term shall commence on the Effective Date and shall continue for fifty (50) years thereafter (the "Term").

4. USE.

(a) Tenant shall have the right to use and occupy the Leased Premises for, subject to the provisions of paragraph 4(e) and 4(f) below and to the requirement that the Leased Premises be used for retail and (if permitted as provided below) office purposes, all lawful purposes Tenant determines in its sole or absolute discretion, including but not limited to, the purpose of owning, developing, leasing, operating and selling a retail shopping center and all activities related or ancillary thereto. In the event that the Tenant determines in its reasonable discretion that Leased Premises cannot be supported solely with retail space, then the Tenant shall be entitled to have office space within the Leased Premises, not to exceed 20% of the square feet of the Leased Premises, so long as the use of such office space is related to the promotion of tourism or recreation.

(b) Title and ownership to the Buildings and Site Improvements shall be vested in Tenant or its successors or assignees (including any subsequent or further improvements, modifications and additions to the Buildings and/or Site Improvements). Landlord shall have no right to encumber the Leased Premises or any Buildings and Site Improvements (in part or in whole) from time to time located on the Leased Premises. Landlord shall execute upon Tenant's request such easements as Tenant shall reasonably require for the purpose of connection to or use of existing and future drainage and utility facilities (including

without limitation, water, sewer gas, electricity, cable, internet and telephone) to serve the Leased Premises. After delivery of the Leased Premises by Landlord, Tenant is authorized to demolish all Existing Improvements located on the Leased Premises, to remove, raze and destroy such trees, plants, shrubs and top soil as Tenant deems necessary or appropriate, and to excavate and remove earth from the Leased Premises in such quantities necessary or appropriate to complete Tenant's Construction (the "Demolition"). Upon the written request of Tenant, Landlord agrees to execute or join in the execution of any documents or instruments that may be reasonably required by Tenant and/or third parties, including but not limited to governmental authorities for the development, use and enjoyment of the Leased Premises, subject, however, to the City's rights and approvals as a regulatory body which may not be contracted away. Without limitation, such documentation may include (i) zoning applications, (ii) changes or variances required by governmental authority, (iii) changes in existing rights of way bounding the Leased Premises, (iv) dedications of easements for roadways, utilities, ingress, egress and other purposes as Tenant may reasonably require, (v) building Permits, variances, use Permits, licenses, approvals or similar governmental authorizations, (vi) abandonment and/or relocation of any easements and rights-of-way that are located within the Leased Premises as public streets and public sidewalks, including without limitation, those designated on Exhibit C attached hereto, interfering with Tenant's development or use of the Leased Premises, and (vii) other like matters. In no event shall Landlord execute any of the foregoing affecting the Leased Premises during the Term without the prior written consent of Tenant, which consent Tenant may withhold in its sole and absolute discretion.

(c) Tenant shall operate and manage the Leased Premises with that degree of skill, care and diligence normally exercised by operators and managers of first-class retail development projects with a scope, magnitude and location comparable to the Leased Premises, including in all cases the standards by which the Leased Premises is operated when it is initially opened, ordinary wear and tear excepted, and otherwise in compliance with this Lease. The Tenant's responsibilities shall include maintenance of all lighting, landscaping, parking, resurfacing, security, irrigation, common areas and other facilities located on the Leased Premises necessary to the complete functioning of a first-class project and compliance with applicable City standards.

(d) Tenant will at all times provide at least 400 spaces of accessible parking and safe access to the beach for citizens of the City desiring to utilize the City's beachfront park and beach. These parking spaces may also be utilized by Subtenants or others utilizing the Leased Premises. The Tenant may not impose a charge for utilizing this parking. The City may, at any time, by reasonable notice to the Tenant, (i) charge for special event parking utilizing such spaces, and (ii) with the approval of Tenant, such approval not to be unreasonably withheld, place meters or other charges on those utilizing such parking spaces, all revenue from any charges imposed pursuant to subparagraph (ii) hereof to be split equally between Tenant and Landlord.

(e) Tenant shall use and operate the Leased Premises throughout the Term as required by this Lease. In any event, the Leased Premises shall be used only in accordance with the Final CO(s) therefor (or Temporary CO(s), to the extent that Final CO(s) have not been issued therefor).

(f) Without limiting the provisions of subparagraph (e) above, Tenant shall not use or occupy the Leased Premises or any part of the Leased Premises, and neither permit nor suffer the Leased Premises, or any portion thereof, to be used or occupied, for any of the following ("Prohibited Uses"): (i) for any unlawful or illegal business, use or purpose or for any business, use or purpose which violates any Requirements; (ii) for any use which is a public nuisance; (iii) as a flea market; (iv) as a massage parlor, except to the extent that therapeutic massages are given in connection with chiropractic, physical therapy or other similar services; (v) a skating rink; (vi) a mortuary; (vii) a labor camp; (viii) an off-track betting establishment; (ix) a gaming or bingo establishment; (x) a nude or topless adult entertainment facility; or (xi) in such manner as may make void or voidable any insurance then in force with respect to the Leased Premises. For purposes hereof, "Requirements" means (i) any and all laws, rules, regulations, constitutions, orders, ordinances, charters, statutes, codes, executive orders and requirements (now existing or hereafter applicable) of all governmental authorities having jurisdiction over Tenant or other persons, or the Leased Premises, or any street, road, avenue or sidewalk comprising a part of, or lying in front of, the Leased Premises, or any vault in, or under the Leased Premises (including, without limitation, ADA and any of the foregoing relating to handicapped access or parking, the building code of the City and the laws, rules, regulations, orders, ordinances, statutes, codes and requirements of any applicable fire rating bureau or other body exercising similar functions); (ii) the Temporary and/or Final COs issued for the Leased Premises as then in force; (iii) any and all provisions and requirements of any property, casualty or other insurance policy required to be carried by Tenant under this Lease; and (iv) any and all terms, conditions or covenants of any and all easements, covenants, conditions or restrictions of record, declarations or other indentures, documents or instruments of record.

5. EFFECTIVE DATE. The effective date (the "Effective Date") of this Lease shall be the date which is thirty (30) days subsequent to the satisfaction of the last to occur of the following events (collectively, the "Conditions Precedent to Effectiveness"):

(a) Tenant having acquired and/or extinguished all rights of the subleases under the Existing Lease; notwithstanding the foregoing, this condition precedent will be deemed satisfied even if some of such subleases remain in effect so long as the condition precedent referred to in subparagraph (c) below has been satisfied;

(b) Evidence that all liens on the Tenant's interest in the Existing Lease have been extinguished and submittal of the Existing Lease by the Tenant to the Landlord for termination; and

(c) Tenant has received site plan approval for the construction of the Building and Site Improvements, which Landlord agrees (subject to the City's rights of approvals as a regulatory body which may not be contracted away) to cooperate with the Tenant to obtain; provided, however, that satisfaction of this condition shall not require Tenant to obtain permits for the construction of the Building and Site Improvements.

Landlord agrees to work with Tenant to resolve any issues associated with acquiring all rights under any sublease with respect to the Existing Lease. The Existing Lease shall be terminated as of the Effective Date.

6. UTILITIES. Landlord shall execute, upon request therefor by Tenant, such easements and rights of way as Tenant shall reasonably require for the purpose of connection to and use of existing and future drainage and utility facilities (including, but not limited to, water, gas, telephone, electric lines, cable, internet, telephone, storm drainage, sanitary sewer systems and surface drainage) located over, under, and across the Leased Premises. Tenant shall pay, directly to the provider thereof, when due, all bills for water, sewer rents, sewer charges, heat, gas, electricity, stormwater, cable, internet and telephone or any other utility service used in the Leased Premises from the commencement of the Term until the expiration of the Term. The source of supply and vendor of each such commodity shall be the local public utility company or municipality commonly serving the area. If Tenant shall require additional service line capacity of any of such utilities and if same are available on the Leased Premises, Tenant, at Tenant's expense, shall have the right to the use of the same.

7. REPAIRS, CONFORMITY WITH THE LAW.

(a) Repairs. Tenant shall take good care of, and keep and maintain, the Leased Premises in good and safe order and condition, and shall make or cause to be made all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary to keep the Leased Premises in good and safe, first class condition, however the necessity or desirability therefor may arise. Tenant shall not commit, waste, damage or injury to the Leased Premises. All repairs made by Tenant shall be substantially equal in quality to the original quality of the Buildings being repaired and shall be made in compliance with the Requirements. Landlord shall not have any duty or obligation to make any alteration, change, improvement, replacement, restoration or repair with respect to the Leased Premises. Tenant shall be responsible for all City or Palm Beach County, Florida ("County") code violations imposed against the Leased Premises, during the Term, as if it was the owner of the Leased Premises. Tenant's obligations under this Article shall be subject to Article 12 concerning Tenant's obligations in the event of damage due to fire or other casualty.

(b) Hazardous Conditions. In the event that any Hazardous Substances are discovered at any time in, under or on the Leased Premises, regardless of whether caused by the Tenant, any subtenant or any transferee, the presence of which was not the result of migration of such Hazardous Substances from off of the Leased Premises into, under or on the Leased Premises, Tenant shall, at Tenant's expense, remove and dispose of the same in accordance with applicable law.

(c) Indemnification. Tenant hereby indemnifies, defends and holds harmless the Landlord Indemnified Parties from and against any claims, liability, obligation, damage, cost, expense, fines and penalties, including, without limitation, reasonable attorneys' fees and costs and reasonable and applicable consultants and contractors' fees and costs, resulting directly or indirectly from the presence, removal or disposal of any Hazardous Substances in, under or on the Leased Premises, the presence of which was not the result of migration of such Hazardous Substances from off of the Leased Premises into, under or on the Leased Premises. Such obligation of Tenant shall include the burden and expense of defending all claims, suits and administrative proceedings (with counsel reasonably satisfactory to Landlord), and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against any of the Landlord Indemnified

Parties resulting directly or indirectly from the presence, removal or disposal of any Hazardous Substances in, under or on the Leased Premises, the presence of which was not the result of migration of such Hazardous Substances from off of the Leased Premises into, under or on the Leased Premises. Tenant's obligations shall not apply with respect to Hazardous Substances in, under or on the Leased Premises existing prior to the execution hereof. Without limiting the foregoing, if the presence or release of any Hazardous Substance on or from the Leased Premises caused or permitted by Tenant results in any violation of Environmental Laws or material contamination of the Leased Premises, Tenant shall promptly take all actions at its sole cost and expense as are necessary or appropriate to return the Leased Premises to the condition existing prior to the introduction of such Hazardous Material; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld. The foregoing indemnifications shall survive the termination or expiration of this Lease for any reason.

(d) Notices. If Tenant receives any notice of, or otherwise becomes aware of, a release, threat of release, or written notice with regard to air emissions, water discharges, noise emissions, recycling, violation of any Environmental Law or any other environmental, health or safety matter affecting Tenant or the Leased Premises (an "Environmental Complaint") independently or by written notice from any governmental authority having jurisdiction over the Leased Premises, including the Environmental Protection Agency (the "EPA"), or with respect to any litigation regarding environmental conditions at or about the Leased Premises, then Tenant shall give prompt oral and written notice of same to the Landlord detailing all relevant facts and circumstances.

(e) Landlord's Remedies. If Tenant does not diligently commence to remediate the environmental conditions it is required to remediate in accordance with the foregoing provisions, promptly after becoming aware of the same and thereafter diligently pursue the completion thereof in a reasonable time (and in any event in accordance with Requirements), Landlord shall have the right, but not the obligation, to enter onto the Leased Premises or to take such actions as it deems necessary or advisable and practicable to cleanup, remove, resolve or minimize the impact of or otherwise deal with any such environmental conditions upon its obtaining knowledge of such matters independently or by receipt of any notice from any Person (as defined below), including the EPA. Any amount so expended by Landlord, together with interest thereon at the Late Charge Rate from the date of payment by Landlord through the date of repayment by Tenant, shall become Additional Rent hereunder, payable upon demand.

(f) Definitions.

"Hazardous Substances" shall mean any hazardous or toxic chemical, waste, byproduct, pollutant, contaminant, compound, product or substance, including, without limitation, asbestos, polychlorinated biphenyls, petroleum (including crude oil or any fraction or by-product thereof), underground storage tanks, and any material the exposure to, or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, disposal, abatement, cleanup, removal, remediation or handling of which is prohibited, controlled or regulated by any Environmental Law.

“Environmental Law” shall mean any federal, state, regional, county or local governmental statute, law, regulation, ordinance, order or code or any consent decree, judgment, permit, license, code, covenant, deed restriction, common law, or other requirement presently in effect or hereafter created, issued or adopted, pertaining to protection of the environment, health or safety of Persons, natural resources, conservation, wildlife, waste management, and pollution (including, without limitation, regulation of releases and disposals to air, land, water and ground water), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq., Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. 6901 et seq., Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251 et seq., Clean Air Act of 1966, as amended, 42 U.S.C. 7401 et seq., Toxic Substances Control Act of 1976, 15 U.S.C. 2601 et seq., Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 651 et seq., Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq., National Environmental Policy Act of 1975, 42 U.S.C. 300(f) et seq., and all amendments as well as any similar state or local statute or code and replacements of any of the same and rules, regulations, guidance documents and publications promulgated thereunder.

“Environmental Damages” shall mean all claims, judgments, damages (including punitive damages), losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation, and defense of any claim, whether or not such is ultimately defeated, and of any settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, any of which are incurred at any time as a result of the remediation or mitigation of an Environmental Condition, including, without limitation, fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with investigation and remediation, including the preparation of any feasibility studies or reports and the performance of any remedial, abatement, containment, closure, restoration or monitoring work;

“Landlord Indemnified Party or Parties” means, collectively, the Community Redevelopment Agency of the City of Riviera Beach (the “CRA”), the Landlord and their respective elected and appointed officials (including the CRA’s chair and members, the Mayor and the City council members), directors, officers, shareholders, members employees, agents and representatives and the respective heirs, legal representatives, successors, and assigns of any of the foregoing.

(g) Survival. The provisions of this Section 8 (b) through (e) shall survive the termination or expiration of this Lease for any reason.

(h) Conduct of Business. Tenant, its successors, subtenants, and assigns, shall comply with all Requirements regarding the manner of the conduct of such parties’ particular business in the Buildings or Site Improvements. Following the Effective Date, Tenant shall make all required changes or installations, and pay the cost, if any, of all inspections required to comply with valid Requirements as they apply to the Leased Premises, Buildings and/or Site Improvements. Tenant, at its option and sole expense, shall have the right to contest in good

faith by appropriate legal proceedings, and delay compliance thereof during the pending of such proceedings, the validity or applicability of any such laws or Requirements.

8. SIGNS, TENANT'S FIXTURES. Tenant may install, change, remove, enlarge and alter, at Tenant's sole cost and in compliance with applicable law, such signs at the Leased Premises, Buildings and/or Site Improvements (including, without limitation, monument, directional and pylon signs), advertising matter, machinery and mechanical equipment as Tenant deems necessary or appropriate. Landlord agrees to cooperate with Tenant in obtaining all necessary Permits including, without limitation, any variances required for same, subject, however, to the city's rights of approvals as a regulatory body which may not be contracted away.

9. ALTERATIONS.

(a) Alterations. At any time, and from time to time, Tenant, at Tenant's cost and expense and in compliance with all Requirements, may undertake any demolition, alteration, addition, enlargement or improvement (any of the foregoing being referred to herein as an "Alteration") of all or any portion of the Building, Site Improvements and Leased Premises as Tenant deems necessary or appropriate. Notwithstanding the foregoing, the Tenant agrees that it will not, without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed by Landlord, undertake any Alterations, which materially alters the site plan previously approved by Landlord. In addition, Landlord's consent shall not be required under this Lease in connection with (i) any subtenant's interior alterations, (ii) any alteration of any Subtenant's storefront or signage, or (iii) any alteration required to be made in order to comply with applicable Requirements.

(b) Mechanics' Liens. (a) If any mechanics' lien is recorded against the Leased Premises by reason of work, labor, services or materials supplied to or claimed to have been supplied to Tenant, Tenant shall, within ninety (90) days after receipt of notice from Landlord or notice of such lien cause such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise.

10. ASSIGNMENT AND SUBLETTING.

(a) Assignment; etc. Tenant shall have the absolute unrestrained right to mortgage, sublet or encumber, without Landlord's prior written consent, all or any part of Tenant's interest in this Lease, the Leased Premises, any Building or portion thereof, any Site Improvement or portion thereof, or any interest in itself, including without limitation, the right to sell, assign, transfer, mortgage, sublet or otherwise transfer or encumber ownership interests by any Person that has an ownership interest, whether directly or indirectly, in Tenant and any Person that has an ownership interest, whether directly or indirectly, in any Person that has an ownership interest, whether directly or indirectly, in Tenant.

(b) If the Tenant sells, assigns or transfers this Lease (collectively, an "Assignment"), to any non-Affiliated Person, then the Tenant must obtain the City's consent and the City agrees that: (i) such consent shall not be unreasonably withheld or delayed, and (ii) if the City has not responded to the Tenant's request for such consent within thirty (30) days of

receipt of such request, then such consent shall automatically, immediately and irrevocably be deemed given on the thirty-first (31st) day following Tenant's request for such consent.

(c) Notwithstanding the foregoing, Daniel Catalfumo acknowledges and agrees that because one or more of his Affiliates will be engaged to develop the Leased Premises and will be responsible for the construction of the Leased Premises, that: (i) as of the Effective Date of this Lease Daniel Catalfumo will have at least a 51% ownership interest in one or more Persons that has an ownership interest, whether directly or indirectly, in Tenant and/or in one or more Persons that has an ownership interest, whether directly or indirectly, in any Person that has an ownership interest, in Tenant; and (ii) without the Landlord's prior written consent, which may not be unreasonably withheld or delayed, that he may not, until construction of the Leased Premises has been completed and at least 60% of the commercially leasable space therein has been leased to commercial Subtenants, make Assignments of more than 50% of his ownership interests in any Person that has an ownership interest, whether directly or indirectly, in Tenant or any Person that has an ownership interest, whether directly or indirectly, in any Person that has an ownership interest, in Tenant; notwithstanding the foregoing, Daniel Catalfumo may: (i) bequeath all or any part of his ownership interest in any Person that has an ownership interest, whether directly or indirectly, in Tenant or in any Person that has an ownership interest, whether directly or indirectly, in any Person that has an ownership interest, whether directly or indirectly, in Tenant, to any other Person, without Landlord's prior written consent, (ii) sell, gift or transfer all or any part of his ownership interest in any Person that has an ownership interest, whether directly or indirectly, in Tenant or in any Person that has an ownership interest, whether directly or indirectly, in any Person that has an ownership interest, whether directly or indirectly, in Tenant, to any Affiliate, spouse, sibling, child or grandchild of his, without Landlord's prior written consent, or (iii) make Assignments in connection with any Leasehold Financing to any Leasehold Mortgagee or any Affiliate of a Leasehold Mortgagee or any assignee or successor in interest to a Leasehold Mortgagee, of all or any part of his ownership interests in any Person that has an ownership interest, whether directly or indirectly, in Tenant or in any Person that has an ownership interest, whether directly or indirectly, in any Person that has an ownership interest, whether directly or indirectly, in Tenant, without Landlord's prior written consent.

Landlord recognizes that Tenant may not operate on its own any or certain elements of any Buildings and/or Site Improvements. Accordingly, Tenant shall be entitled to enter into licenses, subleases, concession agreements, management agreements, employment and other similar agreements and arrangements with third parties for the purpose of implementing any use, operation or activity permitted under this Lease, without the consent of Landlord.

(d) Release. In the event of an Assignment (other than a typical commercial sublease) of this Lease, Tenant shall automatically be released from all liability hereunder with respect to the portion of the Leased Premises, so assigned, so long as the assignee or sublessee agrees to assume such obligations. In the event of a default by any such assignee or subtenant, Landlord shall give Tenant notice of such default, shall accept cure of such default by Tenant within sixty (60) days after receipt of such notice and shall permit Tenant to reenter and repossess the Leased Premises for the then unelapsed portion of the Term of this Lease in accordance with all of the provisions of this Lease.

(e) **Recognition of Subtenant.** Landlord agrees that, in the enforcement of its rights under this Lease, it shall not disturb the occupancy of subtenants or sub-subtenants (or any Persons properly occupying any portion of the Leased Premises, Buildings or Site Improvements by, through or under the same) pursuant to subleases or sub-subleases made in compliance with this Lease and will recognize such parties, provided that (i) such parties (or any Persons properly occupying any portion of the Leased Premises by, through or under the same), agree to attorn to Landlord or its nominee upon the completion of such enforcement proceedings, (ii) such parties (or any Person properly occupying any portion of the Leased Premises by, through or under the same) comply with their respective obligations under any sublease, or other occupancy agreement, and (iii) Landlord shall not be liable for defaults by Tenant before the termination of this Lease. In this regard, upon the request of Tenant, or any subtenant, Landlord shall enter into a recognition agreement with any such party to the effect that, notwithstanding the termination of this Lease by Landlord, such party shall not be disturbed by Landlord and all of their rights, as derived directly or indirectly from this Lease, shall continue in full force and effect as a direct agreement between Landlord and such party so long as such party shall continue to observe and perform for Landlord's benefit all of the obligations under such sublease or occupancy agreement that relate solely to the portion of the Leased Premises or any Buildings or Site Improvements such sublessee or occupant, occupies, provided that (i) such party covenants, upon any termination of this Lease, to cure any defaults of Tenant that are nonmonetary, that relate solely to the portion of the Leased Premises or any Buildings or Site Improvements such party occupies, and that are otherwise susceptible to cure by such party, (ii) Landlord is not bound by any rent paid by such party more than thirty (30) days in advance, and is not responsible for any security deposit posted by such party that was not received by Landlord, (iii) Landlord is not liable for any default by Tenant under the sublease or occupancy agreement (provided that Landlord shall perform those obligations arising or newly accruing after the date of termination of this Lease), (iv) Landlord shall not be required to perform any covenants undertaken by Tenant under any sublease or occupancy agreement that are not covenants of Landlord under this Lease, (v) Landlord is not responsible to subtenants for any act or omission by Tenant under such sublease or for any money owed by or deposit held by Tenant, except to the extent actually received by Landlord. Each sublease shall be subject to and subordinate to this Lease and, in the event of such attornment and recognition, limit the liability of Landlord (and/or its nominee or designee) to its interest from time to time in the Leased Premises.

During the Lease Term, Tenant shall use commercially reasonable efforts to cause all subtenants to comply with their obligations under their subleases. A violation or breach of any of the terms, provisions or conditions of this Lease that results from, or is caused by, an act or omission by a subtenant shall not relieve Tenant of Tenant's obligation to cure such violation or breach.

(f) **Separate Leases.** The Landlord agrees that if the Tenant assigns all or any part of the Tenant's interest in this Lease or in the Leased Premises, that at the Tenant's request, the Landlord will enter into one or more completely separate and independent lease(s) with respect to the portion of the Tenant's interest in this Lease or the Leased Premises so assigned. In this regard (i) such separate lease(s) will be on all of the same terms and conditions of this Lease, other than with respect to the Leased Premises and the Rent, the provisions for which will be appropriately modified so that the Leased Premises in the new lease(s) will only be the Leased Premises to which the new lease(s) relates and the Rent in the new lease(s) will only be

for the Leased Premises to which the new lease(s) relates, (ii) this Lease will be modified to properly reflect the Leased Premises and the Rent will in the aggregate, be identical to the Leased Premises and Rent as originally provided for in this Lease, (iii) this Lease and all new lease(s) will be independent Leases, and (iv) such creation of separate leases will not, in the Landlord's reasonable judgment, adversely impact the Landlord's economic benefit or rights contained herein.

11. CASUALTY

(a) Casualty. In the event of any damage to the Leased Premises by fire, hurricane, flood or other similar event ("Casualty"), then Tenant, at its sole cost and expense, shall promptly commence and diligently pursue the repair of the Buildings or Site Improvements so damaged to the condition it existed immediately before such damage to completion, regardless of whether or not insurance proceeds shall be sufficient therefor, provided that if Landlord or its Affiliates or invitees caused the Casualty, Landlord, at its sole cost and expense, shall promptly commence and diligently pursue the repair of the Buildings or Site Improvements so damaged to completion. Tenant shall commence such repair within 180 days after the occurrence of such Casualty (subject to Unavoidable Delays, as hereinafter defined) and shall diligently pursue the completion of and restoration (subject to Unavoidable Delays). In the event of any Casualty during the last ten (10) years of the Term, then Tenant shall have the right to terminate this Agreement by delivering written notice of termination to Landlord within one hundred eighty (180) days after the occurrence of such Casualty, in which case this Lease shall terminate and neither party shall have any further rights or obligations hereunder except those which expressly survive termination of this Lease.

(b) Proceeds. All insurance proceeds payable and received at any time, or from time to time as a result of a Casualty, shall be paid to Tenant and applied to the restoration of the Buildings and Site Improvements in accordance with the terms hereof. Tenant shall provide, at Landlord's request, reasonable evidence of the amount of any insurance proceeds received and application of the same.

Tenant shall, prior to the commencement of any restoration, furnish to Landlord an estimate of the total estimated cost of the restoration. If such cost estimate shall show that the cost of completing the restoration is in excess of the amount of the net insurance proceeds then available, Tenant shall promptly deposit with the holder of the net insurance proceeds an amount equal to such excess or provide to Landlord evidence reasonably satisfactory to Landlord that such excess funds are available to Tenant for application to such restoration.

If the amount of any net insurance proceeds shall exceed the entire cost of the restoration, such excess, upon completion of the restoration, shall, if there is no then outstanding Event of Default under this Lease, be disbursed to Tenant; provided that if there is an outstanding Event of Default under this Lease, such net insurance proceeds shall first be applied to cure such outstanding Event of Default. Any amounts deposited by Tenant pursuant to the immediately preceding paragraph shall be returned to Tenant to the extent the same are not necessary to fund the cost of the restoration.

If Tenant shall fail to commence such restoration within the time required by the terms of this Lease other than as a result of Unavoidable Delay, or, having commenced such restoration, shall fail to complete it in accordance with such terms with reasonable diligence, other than as a result of Unavoidable Delay, and such failure shall continue for a period of sixty (60) days after notice by Landlord, Landlord may, at its option and upon serving written notice upon Tenant and the Leasehold Mortgagee (if any) that it elects so to do, make and complete such restoration. In such event, and whether or not this Lease may have theretofore been terminated by reason of any Event of Default by Tenant, Landlord shall have the right, as the restoration progresses, to use and apply to the net insurance proceeds to the cost of such restoration.

(c) No Rent Abatement. Except for Tenant's right to terminate this Lease as provided in Section 12(a) above, this Lease shall not be affected in any manner by reason of a Casualty and Tenant, notwithstanding any law or statute, present or future, waives all rights to quit or surrender the Leased Premises or any part thereof, and Tenant's obligations under this Lease, including the payment of Percentage Rent and Additional Rent, shall continue as though none of those events had occurred and without abatement, suspension, or reduction of any kind, except as otherwise expressly provided herein.

(d) Surrender. In the event Tenant elects to terminate this Lease as aforesaid, then Tenant, at its expense, shall raze any remaining portion of the Buildings or Site Improvements, remove all debris, and grade and landscape (grass) the Land. Subject to the payment of costs pursuant to the preceding sentence, Tenant (or Tenant's leasehold mortgagee) shall be entitled to all insurance proceeds, if any, recovered as a result of such casualty.

12. SURRENDER. At the expiration or termination of this Lease, Tenant shall surrender immediate possession of the Leased Premises in its then current condition. Any holding over by Tenant shall not operate, except by written agreement, to extend or renew this Lease or to imply or create a new lease, but in case of any such holdover, Landlord's remedies shall be limited to either the immediate termination of Tenant's occupancy or the treatment of Tenant's occupancy as a month to month tenancy, any custom or law allowing other remedies or damages or which may be to the contrary notwithstanding. At any time during the Term, Tenant shall have the right to remove all or any part of Tenant's equipment, removable fixtures, and other personal property from the Leased Premises.

Upon the expiration of the Term (or upon a termination of Tenant's right of possession of the Leased Premises), Tenant shall deliver to Landlord the following (to the extent then in Tenant's possession or control): Tenant's original executed counterparts, if available (and if not available, true and correct copies thereof), of all subleases then in effect, any service and maintenance contracts then affecting the Leased Premises, true and complete maintenance records for the Leased Premises, all original licenses and permits then pertaining to the Leased Premises and Temporary or Final COs for the Leased Premises, together with a duly executed assignment thereof (without recourse) to Landlord in form suitable for recording, and all financial reports required by Section 31 hereof and such other documents as are reasonably required for the continued operation of the Leased Premises that are in Tenant's possession.

Any personal property of Tenant which remains on the Leased Premises after the termination of this Lease or after the removal of Tenant from the Leased Premises, may, at the

option of Landlord, be deemed to have been abandoned by Tenant, and either may be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit, in its absolute and sole discretion, but in compliance with applicable Requirements. Landlord shall not be responsible for any loss or damage occurring to any such property owned by Tenant.

The provisions of this paragraph 12 shall survive the expiration of the Term.

13. HOLDOVER. In the event Tenant shall hold over possession of the Leased Premises after the termination or expiration of this Lease, Tenant shall pay Percentage Rent equal to 125% of the Percentage Rent in effect at the time of such termination or expiration of the Lease, in lieu of any other or additional charges or damages.

14. DEFAULT AND REMEDIES.

(a) Each of the following events shall be an "Event of Default" hereunder:

(i) if Tenant fails to make any payment of Percentage Rent in full as and when such payment is due, and such failure continues for a period of fifteen (15) days after notice is given by Landlord to Tenant (any notice of Default given by Landlord to Tenant under this Lease being referred to herein as a "Default Notice") that the same is past due; or

(ii) if Tenant fails to pay any amounts required by Section 2(b) hereof or any other monetary payment hereunder when due, and such failure continues for a period of thirty (30) days after delivery to Tenant by Landlord of a Default Notice; or

(iii) if Tenant shall fail to maintain the insurance coverages required hereunder, and such failure continues for a period of thirty (30) days after delivery to Tenant by Landlord of a Default Notice; or

(iv) if Tenant fails to observe or perform in any material respect any term, covenant or condition of this Lease on Tenant's part to be observed or performed (other than the covenants for the payment of Rent or as otherwise expressly set forth herein) and Tenant shall fail to remedy such default within thirty (30) days after a Default Notice is given by Landlord with respect to such default or, if such a default is of such a nature that it cannot reasonably be remedied within thirty (30) days (but is otherwise susceptible to cure, it being understood that Tenant shall have no further grace or cure period with respect to any matter(s) not so susceptible to cure), Tenant shall fail (1) within thirty (30) days after the giving of such Default Notice, to commence steps reasonably necessary to remedy such default (which such steps shall be reasonably designed to effectuate the cure of such default in a professional manner), and (ii) diligently prosecute to completion the remedy of such default, provided however that if such default has not been cured within one (1) year then the Landlord and Tenant shall meet to discuss how best to complete the cure of such default and to set a timeframe in which such default will be attempted to be fully cured; or

(v) if Tenant fails to observe or perform in any material respect the provisions of Section 13.01(a) of the Disposition and Development Agreement, dated as of

December 18, 2006, among the Landlord, the Riviera Beach Community Redevelopment Agency and the Tenant, which results in a termination of the Disposition and Development Agreement in accordance with Section 14.01 thereof with respect to the Phase I Development (as such term is defined in the Disposition and Development Agreement); or

(vi) if Tenant fails to observe or perform in any material respect the provisions of Section 13.01(c) of the Disposition and Development Agreement, dated as of December 18, 2006, among the Landlord, the Riviera Beach Community Redevelopment Agency and the Tenant, which results in a termination of the Disposition and Development Agreement in accordance with Section 14.01 thereof with respect to the Phase I Development (as such term is defined in the Disposition and Development Agreement); or

(vii) if Tenant admits, in writing, that it is generally unable to pay its debts as such become due (if as a result thereof Tenant's performance or ability to perform any of Tenant's obligations under this Lease is materially adversely affected); or

(viii) if Tenant makes an assignment for the benefit of creditors (if as a result thereof Tenant's performance or ability to perform any of Tenant's obligations under this Lease is materially adversely affected); or

(ix) if Tenant and if as a result thereof Tenant's performance or ability to perform any of Tenant's obligations under this Lease is materially adversely affected: (a) files a voluntary petition under Title 11 of the United States Code, (b) files a petition or an answer seeking, consenting to or acquiescing in, any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, state or other bankruptcy or insolvency statute or law, or (c) seeks, consents to, acquiesces in or suffers the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official, of all or any substantial part of its properties, or of all or any part of Tenant's interest in the Leased Premises, and any of the foregoing are not stayed or dismissed within ninety (90) days after such filing or other action; or

(x) if: (a) within ninety (90) days after the commencement of a proceeding against Tenant (if as a result thereof Tenant's performance or ability to perform any of Tenant's obligations under this Lease is materially adversely affected) which seeks any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, state, or other bankruptcy or insolvency statute or law, such proceeding has not been dismissed, vacated or stayed on appeal, or (b) within ninety (90) days after the appointment, without the consent or acquiescence of Tenant (if as a result thereof Tenant's performance or ability to perform any of Tenant's obligations under this Lease is materially adversely affected), of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official, of all or any substantial part of its properties, or of all or any part of Tenant's interest in the Leased Premises, such appointment has not been dismissed, vacated or stayed on appeal; or

(xi) if a levy under execution or attachment in an aggregate amount in excess of \$2,000,000, adjusted for inflation, at any one time, is made against the Leased

Premises or any part thereof or rights appertaining thereto (except for a levy made in connection with actions taken by Landlord (other than solely as holder of Landlord's interest in the Leased Premises)), the income therefrom, this Lease or the leasehold estate created hereby and such execution or attachment is not dismissed, vacated or removed by court order, bonding or otherwise within a period of ninety (90) days after such levy or attachment; or

(xii) if Tenant abandons the Leased Premises or any material portion thereof, and such abandonment continues for sixty (60) days after notice thereof from Landlord; or

(xiii) if Tenant does any act, or other circumstance occurs, which this Lease expressly provides is an Event of Default hereunder.

(b) If an Event of Default occurs, Landlord may elect to do any or all of the following: (i) enforce performance or observance by Tenant of the applicable provisions of this Lease; (ii) recover from Tenant Actual Damages (as defined hereinbelow), plus interest thereon at the Late Charge Rate; (iii) be entitled to accelerate and recover an amount equal to the Percentage Rent otherwise becoming due and payable under this Agreement during the one (1) year period after the occurrence of an Event of Default (in which event such accelerated Percentage Rent shall be deemed to constitute additional Actual Damages hereunder); (iv) terminate this Lease pursuant to paragraph (c) below; (v) take, re-enter, and repossess Tenant's interest in the Leased Premises without terminating the Lease and dispossess Tenant; provided, however, that in such event Landlord will use reasonable efforts to mitigate its damages by re-letting the Leased Premises; or (vi) enforce any other remedy at law or in equity. Landlord's election of a remedy hereunder with respect to an Event of Default shall not limit or otherwise affect Landlord's right to elect any of the other remedies available to Landlord hereunder.

"Actual Damages" means an amount equal to the sum of (i) all accrued and unpaid Rent due and owing by Tenant under the Lease, (ii) any Rent due by virtue of acceleration pursuant to this paragraph (b) or any Rent coming due if Tenant is dispossessed but the Lease is not terminated pursuant to this paragraph (b), as applicable; and (iii) any and all costs, fees and expenses incurred by Landlord, whether through direct personnel cost or through engaging third-party consultants, to pursue the rights and remedies of Landlord, as a result of or in connection with an Event of Default under this Lease.

(c) If an Event of Default occurs, Landlord shall give Tenant (and any Leasehold Mortgagee) notice stating that this Lease shall terminate on the date specified in such notice and this Lease and all rights of Tenant under this Lease shall expire and terminate as if the date specified in the notice were the stated Expiration Date, and Tenant shall quit and surrender Tenant's interest in the Leased Premises and possession thereof forthwith. If such termination is stayed by order of any court having jurisdiction over any case described in Sections 15(a)(ix) or (x) or by Federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such case, Tenant or Tenant as debtor-in-possession fails to assume Tenant's obligations under this Lease within the period prescribed therefor by law or within ninety (90) days after entry of the order for relief or as may be allowed by the court, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such case, shall have the right, at its election, to terminate this Lease, in which event Tenant as debtor-in-possession and/or the

trustee immediately shall quit and surrender Tenant's interest in the Leased Premises and possession thereof forthwith.

(d) In the event this Lease is terminated whether pursuant to the foregoing, by operation of law, at the end of the Term of the Lease, or otherwise, all of the right, title, estate and interest of the Tenant (i) in and to the Leased Premises, (ii) in and to the Buildings and Site Improvements, (iii) in and to all options, rights, benefits, privileges and interests in favor of and all payment due the Landlord of the Buildings and Site Improvements, (iv) in and to all rents, issues and profits thereof whether then accrued or to accrue, (v) in and to all insurance policies and all insurance moneys paid or payable thereunder, and (vi) in the then entire undisbursed balance of any insurance or condemnation proceeds with respect to the Leased Premises, shall automatically pass to, vest in and belong to the Landlord, without further action on the part of either Party and without cost or charge to Landlord, free of any claim thereto by Tenant and all Persons taking by, through or under Tenant. If this Lease is so terminated, Landlord may, without notice, re-enter and repossess Tenant's interest in the Leased Premises and may dispossess Tenant by summary proceedings, writ of possession, proceedings in bankruptcy court, or otherwise, subject to applicable Requirements. In no event shall Tenant be entitled to receive any payment with respect to the value of Tenant's interest in the Leased Premises, the Buildings, the Site Improvements or any personal property located therein.

(e) No failure by Landlord to insist upon strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy available to such party by reason of Tenant's Default or an Event of Default, and no payment or acceptance of partial Rent during the continuance (or with Landlord's knowledge of the occurrence) of any Event of Default, shall constitute a waiver of any such Event of Default or of such covenant, agreement, term or condition or of any other covenant, agreement, term or condition. No covenant, agreement, term or condition of this Lease to be performed or complied with by either party, and no default by either party, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver of any Event of Default shall affect or alter this Lease, but each and every covenant, agreement, term and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent Event of Default. Payment by Tenant to Landlord of any Rent shall be without prejudice to, and shall not constitute a waiver of, any rights of Tenant against Landlord provided for under this Lease or at law or in equity. Tenant's compliance with any request or demand made by Landlord shall not be deemed a waiver of Tenant's right to contest the validity of such request or demand.

(f) Each right and remedy of Landlord provided for in this Lease, except as expressly provided otherwise in paragraph (b), shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

(g) Landlord and its representatives shall have the right, at any time during the Term of this Lease, upon forty-eight (48) hours prior' notice to Tenant, to enter upon the Leased

Premises to (i) inspect the operation, sanitation, safety, maintenance and use of the same (but Landlord shall not thereby assume any responsibility or liability for the performance of Tenant's obligations hereunder, nor any liability arising from the improper performance thereof) and (ii) to conduct inspections for the purpose of determining whether an Event of Default has occurred, provided that Landlord shall be accompanied by a representative of Tenant (in areas of the Leased Premises other than areas readily available to the general public), and provided further that such entry shall not unreasonably interfere with the operation of the Leased Premises. Tenant agrees to make a representative of Tenant available to accompany Landlord on any such inspection. Landlord shall have no obligation to inspect pursuant hereto, nor any liability to any Person for any matter which might be disclosed by such inspection.

15. TITLE AND POSSESSION.

(a) Fee Title. Landlord covenants, represents and warrants that Landlord has fee simple title to the Leased Premises and, upon the termination of the Existing Lease, the right to make this Lease for the entire Term, that said entire Leased Premises is now and shall be as of the date of Tenant's recording of a Memorandum of Lease, free and clear of all liens, encumbrances and restrictions, except for Permitted Exceptions, and that upon paying the Percentage Rent and keeping the agreements of this Lease on its part to be kept and performed, Tenant shall have peaceful and uninterrupted possession of the Leased Premises during the continuance of this Lease.

Landlord warrants and represents that, except for any Permitted Exceptions, no encumbrance or restriction affects the Leased Premises which would impair and/or restrict any right granted to Tenant or derived by Tenant under this Lease.

(b) Priority. The estate of Tenant created hereby shall have priority over any lien, encumbrance or other interest now existing or hereafter created or imposed, upon or against Landlord's interest in the Leased Premises.

16. REAL ESTATE TAXES.

(a) Tax Bills. Landlord, prior to the delivery of possession of the Leased Premises to Tenant, shall make a mailing address change on the property tax records so that the tax bill and tax notices for the Leased Premises will be mailed to Tenant as of the Effective Date at the following address: 4300 Catalfumo Way, Palm Beach Gardens, FL 33410. Prior to the date that the tax bill is mailed directly to Tenant pursuant hereto, Landlord, prior to delinquency, shall send to Tenant a copy of the tax bill for the Leased Premises.

(b) Tax Payments. Following receipt of the aforesaid tax bills, Tenant shall pay, when due and before delinquency, the ad valorem real estate taxes (including all special benefit taxes and special assessments) levied and assessed against the Leased Premises for the period commencing with the Effective Date and continuing for the remainder of the Term. The ad valorem taxes levied or assessed for the year in which Tenant commences paying Rent shall be prorated between Landlord and Tenant so that Tenant shall pay only such part thereof as pertains to the period commencing on the Effective Date, and the ad valorem taxes levied or assessed for the year during which this Lease expires or is terminated shall be prorated between

Landlord and Tenant so that Tenant shall pay only such part thereof as pertains to the period commencing on January 1st and ending on the date this Lease expires or is terminated. In no event shall Tenant be required to pay real estate taxes pertaining to any period prior to the Effective Date or subsequent to the expiration or earlier termination of the Lease. Within thirty (30) days of Tenant's request, Landlord shall reimburse Tenant that portion of the tax bill pertaining to any period prior to the Effective Date or subsequent to the expiration of the Term.

(c) Assessments. All special benefit taxes and special assessments shall be spread over the longest time permitted and Tenant's liability for installments of such special benefit taxes and special assessments not yet due shall cease upon the expiration or termination of this Lease.

(d) Contest.

(i) Tenant shall have the right to contest the validity or the amount of any tax or assessment levied against the Leased Premises or any improvements thereon, provided that Tenant shall not take any action which will cause or allow the institution of foreclosure proceedings against the Leased Premises. Tenant shall be entitled to the benefit of any tax abatements and reductions as are, or may be, available under applicable law as if Tenant were the fee owner of the Leased Premises. Landlord shall not be required to join in any action or proceeding in connection with such abatement or reduction unless the provisions of any law, ordinance or regulation in effect require that such action or proceeding be brought by and/or in the name of Landlord. If so required, Landlord shall join and cooperate in such proceedings or permit them to be brought by Tenant in Landlord's name, in which case Tenant shall pay all reasonable costs and expenses (including, without limitation, attorneys' fees and disbursements) incurred by Landlord in connection therewith. In the event that for any reason Tenant's leasehold interest in the Leased Premises is deemed not subject to ad valorem taxation, Tenant agrees to make an annual payment to the City equal to the ad valorem taxes that would have otherwise accrued to the City and the CRA (including County taxes) if such leasehold interest was subject to ad valorem taxation (the "Substitute Ad Valorem Tax Payment"). The foregoing shall be paid regardless of whether the CRA is then in existence.

(ii) Landlord covenants and agrees that if there shall be any refunds or rebates on account of any tax, governmental imposition or levy paid by Tenant under the provisions of this Lease, such refund or rebate shall belong to Tenant; provided, that in the event the Leased Premises, the Buildings or the Site Improvements are determined to be not subject to ad valorem taxation, the provisions of Section 2(b) shall apply. Any such refunds or rebates received by Landlord shall be held in trust for the benefit of Tenant and shall be forthwith paid to Tenant. Landlord shall, on request of Tenant, sign any receipt which may be necessary to secure the payment of any such refund or rebate, and shall pay over to Tenant such refund or rebate as received by Landlord.

17. INSURANCE. Commencing with the Effective Date, Tenant shall procure and continue in effect public liability and property damage insurance with respect to the operation of the Leased Premises and name Landlord as an additional insured. Such public liability insurance shall cover liability for death or bodily injury in any one accident, mishap or casualty in a sum of not less than \$2,000,000.00, and shall cover liability for property damage in one accident,

mishap or casualty in the amount of not less than \$500,000.00. At any time that there is Leasehold Financing on the Leased Premises, then the casualty insurance required to be obtained in accordance with such Leasehold Financing shall satisfy the casualty insurance requirements of this Lease.

In the event there is not any Leasehold Financing on the Leased Premises, then the Tenant shall provide such coverages as are typically required at that point in time by commercial lenders for projects of similar size, nature, character and location as the Leased Premises as approved by the Landlord, such approval not to be unreasonably withheld.

The Tenant shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all of Tenant's employees as required by Florida Statutes. In the event that the Tenant does not carry such Workers' Compensation Insurance and chooses not to obtain same, then Tenant shall in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the Landlord.

The proceeds from Tenant's casualty insurance hereunder shall be paid and applied as provided in Article 12 hereof. Any insurance carried by Tenant hereunder, at Tenant's option, may be carried under an insurance policy(ies), self-insurance or pursuant to a master policy of insurance or so-called blanket policy of insurance covering other locations of Tenant or its Affiliates, or any combination thereof; provided that any self insurance or proposed insurer having less than a Best's Key Rating of A-VII or less shall be subject to the prior written consent of the Landlord, such consent not to be unreasonably withheld. Tenant shall, at the request of Landlord, provide reasonable proof of the foregoing coverages.

18. INDEMNITY; LANDLORD'S EXCULPATION

(a) The Tenant shall indemnify, defend and hold harmless the Landlord Indemnified Parties against and from any and all claims, damages, actions, loss, cost and expense (including but not limited to reasonable attorneys' fees) resulting directly or indirectly from the Tenant's acts or omissions or the acts or omissions of the Tenants' respective employees or agents (acting within the scope of their employment or agency). In addition, the Landlord Indemnified Parties shall not be liable to Tenant for any loss, cost, liability, claim, damage, expense (including, without limitation, reasonable attorneys fees and disbursements), penalty or fine incurred, in connection with or arising from: (i) any injury (whether physical, economic or otherwise) to Tenant or to any other person in, about, or concerning the Leased Premises; (ii) any damage to, or loss (by theft or otherwise) of, any of Tenant's property or of the property of any other person in, about, or concerning the Leased Premises, or the use or occupancy thereof, irrespective of the cause of injury, damage, or loss (including, without limitation, the acts or negligence of any Tenant or occupant of the Leased Premises or of any owners or occupants of adjacent or neighboring property or caused by any construction work or by operations in construction of any private, public or quasi-public work) or any latent or patent defects in the Leased Premises; or (iii) any act, omission or negligence of Tenant or its Affiliates or of the contractors and their respective subcontractors, agents and employees, agents, servants, employees, guests, invitees or licensees of Tenant or its Affiliates (except to the extent any of the matters described in clauses (i) or (ii) is due to the negligence or willful misconduct of any

Landlord Indemnified Party). Without limiting the generality of the foregoing, except to the extent caused by the gross negligence or willful misconduct of any of the Landlord Indemnified Parties (and then only in such Landlord Indemnified Party's proprietary capacity as opposed to its governmental capacity), the Landlord Indemnified Parties shall not be liable for (i) any failure of water supply, gas or electric current, (ii) any injury or damage to person or property resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, act of god, act of war, enemy action, flood, wind or similar storms or disturbances, water, rain or ice, or (iii) leakage of gasoline or oil from pipes, appliances, sewer or plumbing works.

Notwithstanding anything to the contrary in this Lease, Landlord's liability under the Lease shall be limited to Landlord's Interest in the Leased Premises. Nothing contained in this Section or elsewhere in this Lease is in any way intended to be a waiver of the limitation placed upon Landlord's liability as set forth in §768.28, Fla. Stat., or of any other constitutional, statutory, common law or other protections afforded to public bodies or governments.

Tenant shall notify Landlord within thirty (30) days after Tenant has notice of any occurrence at the Leased Premises which Tenant believes could give rise to a claim of \$1,000,000 (adjusted for inflation) or more, whether or not any claim has been made, complaint filed or suit commenced.

Tenant agrees to pay such Landlord Indemnified Party, as Rent hereunder, all amounts due under this Article 19 within sixty (60) days after receipt of notice thereof from the Landlord Indemnified Party.

19. BROKERS. Landlord and Tenant represent that they have dealt with no broker or agent with respect to this Lease. Landlord and Tenant hereby indemnify and save and hold the other harmless against any claims for brokerage commissions or compensation or other claims of any kind (including reasonable attorney's fees and costs) arising out of the negotiation and execution of this Lease or their respective interest or involvement with respect to the Leased Premises.

20. PREVAILING PARTY. In the event of litigation between Landlord and Tenant in connection with this Lease, the reasonable attorneys' fees and court costs incurred by the prevailing party in such litigation shall be borne by the non-prevailing party.

21. NOTICES. All notices hereunder shall be in writing and sent by United States certified or registered mail, postage prepaid, or by overnight delivery service providing proof of receipt, addressed if to Landlord, to the place where Percentage Rent checks are to be mailed, and if to Tenant, to OMRD, Inc., 4300 Catalfumo Way, Palm Beach Gardens, FL 33410, and OMRD Holdings, LLC, 2295 Corporate Blvd., Suite 222, Boca Raton, FL 33431, with a duplicate to Greenberg Traurig, P.A., 5100 Town Center Circle, Suite 400, Boca Raton, FL 33486, Attn: Marc Sinensky, Esq., provided that each party by like notice may designate any future or different addresses to which subsequent notices shall be sent. Notices shall be deemed given upon receipt or upon refusal to accept delivery. Notice by Landlord hereunder shall simultaneously be delivered to any leasehold mortgagee, trustee or lender of Tenant (of which Landlord has been notified prior to the date of the giving of such notice by Landlord).

22. TRANSFER OF TITLE.

(a) Future Landlord. In the event that Landlord conveys its interest in the Leased Premises to any other Person or entity, Tenant shall have no obligation to pay Percentage Rent or any other charges under this Lease to any such transferee until Tenant has been so notified and has received satisfactory evidence of such conveyance together with a written direction from such transferee as to the name and address of the new payee of Percentage Rent and other charges. It is understood and agreed that Tenant's withholding of Percentage Rent and other charges until its receipt of such satisfactory evidence shall not be deemed a default under this Lease and such Percentage Rent and other charges shall accrue during the period which Tenant is waiting for the proper direction and evidence of conveyance.

(b) Release. In the event of any transfer, assignment or conveyance of Landlord's interest in this Lease, Landlord shall be relieved of all covenants and obligations of Landlord hereunder arising from and after the date of such transfer, assignment or conveyance provided that such purchaser or successor in interest has assumed all such covenants and obligations of Landlord hereunder.

(c) Tax Bills. In the event that Landlord conveys its interest in the Leased Premises, Landlord shall take all measures necessary to cause real estate tax bills and notices to continue to be mailed to Tenant as required under Article 17.

23. ESTOPPEL CERTIFICATE. Landlord and Tenant agree to execute and deliver to the other within thirty (30) days after receipt of such request, an estoppel certificate, in commercially reasonable form, which certificate may include (a) information as to any modification of this Lease, (b) dates of commencement of Term and the termination date of this Lease, (c) to the best of Landlord's or Tenant's knowledge, whether or not Landlord or Tenant is in default of this Lease, and (d) such other information reasonably requested by the requesting party.

24. CONDEMNATION.

(a) Eminent Domain. If all or substantially all of the Leased Premises or access thereto or therefrom shall be taken for any public or quasi-public use under any statute or by right of eminent domain, or by private purchase in lieu thereof (a "Taking"), then this Lease shall automatically terminate as of the date that possession has been so taken (the "Vesting Date").

(i) In the event of a Taking of less than all or substantially all of the Leased Premises or access thereto or therefrom, Tenant, within ninety (90) days of such Taking, may elect to terminate this Lease and not restore it, by reason of the Taking, Tenant determines that the Leased Premises is unsuitable for continued operation of the Leased Premises as contemplated herein, as determined by Tenant in its reasonable discretion.

(ii) In the event Tenant elects by reason of the foregoing events to terminate the Lease, Tenant shall give written notice of such election to Landlord within ninety (90) days of such Taking, and the term of this Lease shall expire and come to an end thirty (30) days after such notice is given. Upon such termination, the Percentage Rent and all Additional

Rent shall be adjusted to the date of termination and neither party shall have any further rights or liabilities hereunder. With respect to any items of Additional Rent which are payable to Landlord in the event of such termination but which are not then capable of ascertainment, Tenant shall pay to Landlord an amount equal to such Additional Rent as and when same become determined. The covenants and agreements with respect to the adjustment and payment of these items of Additional Rent and refunds, if any, shall survive the termination of this Lease.

(iii) In the event Tenant does not elect by reason of the foregoing events to terminate the Lease, then the Tenant shall restore the remaining portion of the Leased Premises, to the extent feasible, to the condition thereof as it existed immediately before such taking, provided, however, that the Tenant shall not be required to expend any amount in excess of the net condemnation award for such purposes.

(b) The Award. In the event of a Taking resulting in the termination of this Lease pursuant to the provisions of this Section 25, the parties hereto agree to cooperate in applying for and in prosecuting any claim for such Taking and further agree that the aggregate net award, after deducting the reasonable expenses of Landlord and Tenant, including attorneys' fees, incurred in connection therewith, shall be distributed as follows, and in the following order of priority:

(i) Tenant shall be entitled to an amount equal to the value, on the Vesting Date, of the Buildings and Site Improvements taken, as if improved and available for their highest and best use, giving effect to the existence of this Lease. If the Landlord is the condemning party, it shall not be entitled to claim any payment hereunder. In this regard, Tenant shall be entitled to: (A) an amount equal to the value of the Buildings and Site Improvements taken, including the loss of income associated with the Buildings and Site Improvements taken, (B) be compensated for the loss of its business and goodwill occasioned by any Taking, (C) make all claims allowed by the laws of the State of Florida and the United States of America against the condemning authority with respect to all or any portion of the award Tenant may be entitled to hereunder. Without limiting the foregoing, if the amount that the Tenant may otherwise be entitled to pursuant to this provision is less than all amounts due, including without limitation, principal, interest, prepayment premiums or penalties, to all Leasehold Mortgagees in connection with all Leasehold Financings, then the Tenant shall be entitled to an amount of the award that is equal to all amounts due, including without limitation, principal, interest, prepayment premiums or penalties, to all Leasehold Mortgagees in connection with all Leasehold Financings; and

(ii) Landlord shall be entitled to the balance of the award.

(c) Reconstruction.

(i) In case of a Taking of less than substantially all of the Leased Premises and if this Lease is not terminated, Tenant, at its expense, shall, to the extent of the award (but this limitation shall not be construed as imposing any obligation on Landlord to contribute to such restoration work), proceed with diligence (subject to reasonable time periods for purposes of adjustment of any award and Unavoidable Delays) to repair or reconstruct the Buildings (all such repair, reconstruction and work being referred to in this Article as

“Reconstruction Work”) and the award in the condemnation proceedings, after deduction of the reasonable expenses of Landlord and Tenant incurred in connection with the Taking, shall be made available to Tenant for purposes of paying the cost and expense of the Reconstruction Work. During the period in which the Reconstruction Work has not been completed, Tenant shall be entitled to an equitable abatement of Percentage Rent; and, if it is impracticable for Tenant to remain open for business and Tenant elects to close until restoration has been completed, then there shall be a full abatement of Percentage Rent until Tenant's completion of the restoration work, such abatement not to exceed a period of two (2) years from the date of payment of the condemnation proceeds.

If Tenant shall fail to commence such Reconstruction Work within one hundred eighty (180) days after the Vesting Date (adjusted for Unavoidable Delays) or, if having commenced such Reconstruction Work, shall, other than as a result of Unavoidable Delays, fail to complete in accordance with such terms with reasonable diligence, and such failure shall continue for a period of sixty (60) days after notice by Landlord, subject to Unavoidable Delays, Landlord may, at its option and upon serving written notice upon Tenant and any Leasehold Mortgagee (if any) that it elects to do so, may complete such Reconstruction Work. In such event, and whether or not this Lease may have theretofore been terminated by reason of any Event of Default by Tenant, Landlord shall have the right as the Reconstruction Work progresses to use and apply the net condemnation award to the cost of such Reconstruction Work.

(ii) In case of a Taking of less than all or substantially all of the Leased Premises, the Percentage Rent payable hereunder shall, from and after the Vesting Date, be equitably reduced based upon the portion of the Leased Premises taken.

(iii) Any compensation for a temporary Taking of the Leased Premises, shall be payable to Tenant without participation by Landlord, except to the proportionate extent such temporary Taking extends beyond the end of the Lease Term and Tenant shall remain fully responsible for Percentage Rent and Additional Rent.

25. LEASEHOLD MORTGAGE.

(a) Notices. Tenant shall have the right at any time and from time to time during the term to encumber its interest in the Leased Premises with one or more leasehold mortgages (the “Leasehold Financing”). Upon receipt of written notice from Tenant of the existence of any Person providing a leasehold mortgage to Tenant (each, a Leasehold Mortgagee), Landlord agrees to provide such Leasehold Mortgagee with copies of any notices of default delivered to Tenant. Any such notice of default shall state the nature of the alleged default and shall specify the amounts of Rent or other payments herein provided for that are claimed to be in default. Each Leasehold Mortgagee shall also be given notice of any arbitration or other dispute proceedings between Landlord and Tenant, if any. Further, each Leasehold Mortgagee shall receive notice, and a copy, of any award or decision made in said arbitration or other proceeding.

(b) Monetary Defaults and Cure Rights. In the event of a monetary default by Tenant hereunder, Landlord shall accept payment by or at the instigation of any Leasehold Mortgagee in accordance with the terms hereof as if the same had been undertaken by Tenant. If

Landlord shall elect to terminate this Lease by reason of any monetary default of Tenant, any Leasehold Mortgagee shall have the right to nullify any notice of termination by curing such monetary default prior to the effective date of termination.

(c) Non-Monetary Defaults and Cure Rights. In the event of a non-monetary default by Tenant hereunder, Landlord shall accept any curative acts undertaken by or at the instigation of any Leasehold Mortgagee in accordance with the terms of this Section as if the same had been undertaken by Tenant. If Landlord shall elect to terminate this Lease by reason of any non-monetary default of Tenant, each Leasehold Mortgagee shall have the following rights:

(i) to nullify any notice of termination by curing such non-monetary default prior to the effective date of termination;

(ii) to postpone and extend the specified date for the termination of this Lease as fixed by Landlord in its notice of termination, for a period of not more than ninety (90) days, provided that such Leasehold Mortgagee shall agree with Landlord (by giving a notice to that effect to Landlord) prior to the effective date of termination, to accomplish the following within the times hereinafter provided and shall, in fact, accomplish the following in a timely manner:

(A) cure or cause to be cured within sixty (60) days of Landlord's notice any existing monetary defaults;

(B) pay or cause to be paid during such ninety (90) day period all Rent and other monetary obligations of Tenant hereunder, as and when the same become due;

(C) promptly cure or cause to be cured any non-monetary defaults that such Leasehold Mortgagee can cure using diligent and commercially reasonable efforts; and

(D) take all steps necessary to ensure Tenant is in compliance with the covenants set forth in this Lease; and

If, at the end of said ninety (90) day period, the Leasehold Mortgagee is in compliance with the conditions set forth in Sections A-D immediately set forth above, but the Event of Default is of such a nature that it cannot be reasonably remedied within such ninety (90) day period, the time for completion of said steps shall be further extended upon the same conditions for such period as shall be reasonably necessary to complete such steps with reasonable diligence.

(d) New Lease. In the event of the rejection or disaffirmance of this Lease pursuant to bankruptcy law or other law affecting creditors' rights, if requested by any Leasehold Mortgagee in writing within thirty (30) days of such rejection or disaffirmance, Landlord shall enter into a new lease of the Leased Premises with the Leasehold Mortgagee or its designee. Such new lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection or disaffirmance, and upon all the terms and provisions contained in the Lease. Such written request by any Leasehold Mortgagee shall be accompanied by a copy of such proposed new lease, duly executed, and acknowledged by the proposed new assignee, and

the Leasehold Mortgagee shall have cured (or caused to be cured) all defaults under this Lease which are susceptible to being cured by the Leasehold Mortgagee and paid to Landlord all expenses and reasonable attorneys' fees incurred by Landlord in connection with the Events of Default upon which the termination was premised and the preparation, execution and delivery of the replacement lease. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Leased Premises as the Lease. The provisions of this Section shall survive the termination, rejection or disaffirmance of this Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by Landlord, Tenant and the Leasehold Mortgagee. The new lease shall be on the same terms and conditions as this Lease and shall have the same priority as this Lease. Landlord's obligation to enter into the new lease shall be conditioned upon the following: (i) the Leasehold Mortgagee shall have cured all monetary defaults and commenced, and diligently prosecuted, the cure of all reasonably curable non-monetary defaults; and (ii) the Leasehold Mortgagee shall reimburse Landlord for all reasonable costs and expenses incurred in reviewing the new lease.

(e) Amendment. The cancellation, surrender or amendment of this Lease by Tenant shall not be effective as against a Leasehold Mortgagee without the written consent of the Leasehold Mortgagee.

(f) Estoppel Certificates. Within thirty (30) days after written request therefor from a Leasehold Mortgagee, Landlord shall deliver to the Leasehold Mortgagee an estoppel certificate signed by Landlord which certifies as to: (a) the Rent payable under this Lease; (b) the term of this Lease and the rights of Tenant, if any, to extend the term of this Lease; (c) the nature of any existing defaults by Tenant alleged by Landlord; and (d) any other matters reasonably requested by the Leasehold Mortgagee.

(g) No Liability/Release. Notwithstanding anything in this Lease to the contrary, the Leasehold Mortgagee shall not be liable or responsible in any respect for any of Tenant's obligations under this Lease unless and until the Leasehold Mortgagee becomes the Landlord and holder of this Lease through foreclosure proceedings, exercise of the power of sale, or deed or assignment in lieu thereof. If the Leasehold Mortgagee or any affiliate of the Leasehold Mortgagee shall acquire Tenant's interest in the Lease or shall become Tenant under any new lease made pursuant to this Section, then the Leasehold Mortgagee or its affiliate may assign this Lease or such new lease and thereupon shall be released from all liability for the performance or observance of the covenants and conditions to be performed or observed on the part of Tenant under this Lease or such new lease from and after the date of such assignment.

(h) Interest of Leasehold Mortgagee in Leased Premises. The Leasehold Mortgagee shall have no interest in the Leased Premises other than its interest as Leasehold Mortgagee or as Tenant under and pursuant to this Lease or any new Lease.

(i) Additional Provisions. Landlord agrees and acknowledges that it will enter into any amendments to this Lease in order to reflect any other commercially reasonable terms that the Leasehold Mortgagee may from time to time reasonably request to confirm and protect the Leasehold Mortgagee's rights and interests as a leasehold mortgagee unless there is good cause not to agree. The provisions of this section in favor of the Leasehold Mortgagee shall

inure to the benefit of the Leasehold Mortgagee and its successors and assigns, and also any other tenant under or transferee of this Lease pursuant to any foreclosure proceedings, exercise of the power of sale or deed or assignment in lieu thereof. Anything herein to the contrary notwithstanding, such amendment shall in no event increase any of Landlord's obligations, or materially diminish any of Landlord's rights, or diminish any of Tenant's monetary obligations to Landlord, under this Lease. The Landlord shall also cause to be delivered, at the expense of Tenant, such opinions of counsel as the Tenant and/or any Leasehold Mortgagee shall reasonably request.

26. NO LEASEHOLD MORTGAGE. Landlord acknowledges, as of the date hereof, that neither its interest in the land nor its interest in the Leased Premises is encumbered, other than the Permitted Exceptions and the rights under the Existing Lease. From and after the date hereof, Landlord shall have no right to encumber Landlord's interest in the land or the Leased Premises or any portion thereof.

27. TAX TREATMENT. Tenant or its assign shall have the benefit of all depreciation, depletion, amortization, deductions or allowances related to the Buildings and the Site Improvements now or hereafter located on the Leased Premises under the Internal Revenue Code, as amended, and under any income or similar or other tax statute enacted by any applicable local, state, county, federal or other governmental or taxing authority.

28. LANDLORD'S OPTION TO PURCHASE. The Landlord is granted a one time option to acquire the Tenant's rights under this Lease and any Buildings and/or Site Improvements as may then exist on the Leased Premises, in accordance with the following provisions:

(a) Exercise. The one time opportunity that the Landlord has exists at the end of the thirtieth (30th) year of the Lease Term. If the Landlord desires to exercise this option, it must provide to the Tenant written notice of its election to exercise this Option by no later than six (6) months earlier than the end of the thirtieth (30th) year of the Lease Term.

(b) Price. The price will be determined using the following formula. The net operating income, determined in accordance with generally accepted accounting principles and subject to review and audit by Landlord as provided in paragraph 31 hereof, that the Tenant has realized from the Leased Premises for the twenty-seventh (27th), twenty-eighth (28th) and twenty-ninth (29th) years of the Lease Term shall be averaged and such amount will be capitalized using an eight (8%) percent capitalization rate. As an example of the foregoing, if the net operating income the Tenant has realized from the Leased Premises for the 27th year was \$3,000,000 and the net operating income the Tenant has realized from the Leased Premises for the 28th year was \$4,000,000 and the net operating income the Tenant has realized from the Leased Premises for the 29th year was \$5,000,000 (the average amount of such three years being \$4,000,000), then the price would be \$50,000,000 (\$4,000,000 divided by .08). Any right of Leasehold Mortgagees and all Leasehold Mortgages or other Tenant encumbrances on the Leased Premises shall be subject and subordinate in all respects to this purchase option, and the right of the City to purchase pursuant to this paragraph shall be "free and clear" of any liens on Tenant's interest in the Lease, all of which liens shall be extinguished as of the date of purchase.

(c) Terms of Sale. The Lease, Buildings and Site Improvements will be transferred “as-is” to the Landlord with the Tenant making no representation or warranty of any kind, including without limitation, any representation or warranty with respect to the condition of any Buildings or Site Improvements; subject, however, to the provisions of this Lease regarding the repair and maintenance of the Leased Premises. In addition, the Tenant will not make any representation or warranties regarding the status of any subleases or the financial condition of any subtenants, but will provide the Landlord copies of all existing subleases and such financial data with respect thereto as Landlord may reasonably request. Tenant shall also transfer to Landlord all rights to any unpaid proceeds of any casualty claim or eminent domain award to be used to repair or restore the Leased Premises. The Landlord will bear all expenses of such sale, including without limitation, any transfer taxes, intangible taxes, documentary stamps or taxes, title insurance, surveys, environmental reports or any other inspection reports.

(d) Closing Date. The closing shall occur on the first (1st) business day following the end of the thirtieth (30th) year of the Lease Term.

(e) Maintenance of the Leased Premises. In the event the Landlord exercises its purchase option as provided for in this section, then as a condition precedent to the closing in connection therewith: (i) the Landlord and the Tenant shall, at or prior to such closing, enter into an agreement with respect to the Leased Premises, the Buildings and the Site Improvements, for the next 30 years of the Lease Term, which ensure that the Leased Premises the Buildings and the Site Improvements, will continue to be operated in a fashion consistent with the adjacent hotel/hotel condominium property and in a fashion that will maintain the quality and value of the adjacent hotel/hotel condominium property, and (ii) the Landlord and the Tenant shall, at or prior to such closing, enter into an agreement with respect to the Buildings and the Site Improvements on the Leased Premises, that will ensure that the Buildings and the Site Improvements on the Leased Premises, during the balance of the Lease term, including all extensions thereof, will not be reconfigured and/or reconstructed to a height greater than the height they were originally constructed. Neither the Landlord nor the Tenant will unreasonably withhold or delay its approval or execution of any such agreements.

29. NO AUTHORITY TO CONTRACT IN NAME OF LANDLORD. Nothing contained in this Lease shall be deemed or construed to constitute the consent or request of Landlord, express or implied, by implication or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement of, alteration to, or repair of, the Leased Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for, or permit the rendering of, any services or the furnishing of materials that would give rise to the filing of any lien, mortgage or other encumbrance against Landlord’s interest in the Leased Premises or any part thereof or against assets of Landlord, or Landlord’s interest in any Rent. NOTICE IS HEREBY GIVEN, AND TENANT SHALL CAUSE ALL CONSTRUCTION AGREEMENTS TO PROVIDE, THAT TO THE EXTENT ENFORCEABLE UNDER FLORIDA LAW, LANDLORD SHALL NOT BE LIABLE FOR ANY WORK PERFORMED OR TO BE PERFORMED AT THE LEASED PREMISES OR ANY PART THEREOF FOR TENANT OR ANY SUBTENANT OR FOR ANY MATERIALS FURNISHED OR TO BE FURNISHED TO THE PREMISES OR ANY PART THEREOF FOR ANY OF THE FOREGOING, AND NO MECHANIC’S, LABORER’S, VENDOR’S, MATERIALMAN’S, OR OTHER SIMILAR STATUTORY LIEN

FOR SUCH WORK OR MATERIALS SHALL ATTACH TO OR AFFECT LANDLORD'S INTEREST IN THE LEASED PREMISES OR ANY ASSETS OF LANDLORD, OR LANDLORD'S INTEREST IN ANY RENT. The foregoing shall not require Tenant to request advance waivers of lien from contractors or subcontractors.

30. LANDLORD'S RIGHT TO PERFORM TENANT'S COVENANTS AND OBLIGATIONS.

If an Event of Default shall occur and be continuing beyond any applicable cure period, Landlord may, but shall be under no obligation to, perform the obligation of Tenant the breach of which gave rise to such default, without waiving or releasing Tenant from any of its obligations contained herein, provided that Landlord shall exercise such right only in the event of a bona fide emergency or after five (5) business days' notice to Tenant and any Leasehold Mortgagee, Tenant hereby grants Landlord access to the Leased Premises in order to perform any such obligation. Any amount paid by Landlord in performing Tenant's obligations as provided in this paragraph, including all costs and expenses incurred by Landlord in connection therewith, shall constitute additional Rent hereunder and shall be reimbursed to Landlord within thirty (30) days following Landlord's demand therefor, together with a late charge on amounts actually paid by Landlord, calculated at the Late Charge Rate from the date of notice of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Landlord's payment or performance pursuant to the provisions of this paragraph shall not be, nor be deemed to constitute, Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

31. FINANCIAL REPORTS AND RECORDS.

(a) Tenant shall at all times during the Term of this Lease keep and maintain at a location within the City (separate from any of Tenant's other books, records and accounts) accurate and complete records pertaining to the Leased Premises including, without limitation, books of account reflecting net operating income, the operations of the Leased Premises, and such other matters required to demonstrate Tenant's compliance with its obligations under the Lease, all in accordance with the generally accepted accounting principles. Landlord and its representatives shall have, during normal business hours and upon reasonable advance notice, access to inspect the records required by the preceding sentence.

(b) The Landlord shall have the right to cause an audit by any recognized accounting firm (in accordance with the generally accepted accounting principles) of (i) Tenant's net operating income and/or (ii) Tenant's subtenant rent information to be made at any time (but not more frequently than one (1) time in any twelve (12) month period), at Landlord's expense, except as provided below. Such right of inspection and audit may be exercised at any time within three (3) years after the end of the year to which such Tenant's net operating income or subtenant rent information is related, and Tenant shall maintain all such books and records for at least such period of time and, if any dispute between the Parties has arisen and remains unresolved at the expiration of such period of time, for such further period of time until the resolution of such dispute. If any such audit by Landlord reveals that Tenant has understated the Rent audited by five percent (5%) or greater, the costs of such audit shall be paid by Tenant and the amounts of

any such underpayment disclosed by such audit, together with any applicable interest accrued thereon, shall be promptly paid to the Landlord.

(c) The obligations of Tenant and Landlord under this Article shall survive the Expiration of the Term of the Lease.

32. NONLIABILITY.

(a) No member, official or employee of the CRA, the Landlord or any other governing body (including, without limitation, the Mayor or Members of the City Council, the CRA or its members) shall be personally liable to Tenant, or any successor in interest, in the event of any default or breach by Landlord or for any amount or obligation which may become due to Tenant or successor under the terms of this Lease; and any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such Person, or under or by reason of the obligations, covenants or agreements contained in this Lease, or implied therefrom are expressly waived and released as a condition of, and as a consideration for, the execution of this Lease.

(b) No Person that has an ownership interest, whether directly or indirectly, in Tenant and no Person that has an ownership interest, whether directly or indirectly, in any Person that has an ownership interest, whether directly or indirectly, in Tenant, shall be personally liable to Landlord, or any successor in interest, in the event of any default or breach by Tenant or for any amount or obligation which may become due to Landlord or successor under the terms of this Lease; and any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such Person, or under or by reason of the obligations, covenants or agreements contained in this Lease, or implied therefrom are expressly waived and released as a condition of, and as a consideration for, the execution of this Lease.

33. CONFLICT OF INTEREST. Tenant represents and warrants that, to the best of its actual knowledge, no member, official or employee of the CRA, the Landlord or any other governing body has any direct or indirect financial interest in this Lease, nor has participated in any decision relating to this Lease that is prohibited by law. Tenant represents and warrants that, to the best of its knowledge, no officer, agent, employee or representative of the Landlord, the CRA or any other governing body has received any payment or other consideration for the making of this Lease, directly or indirectly from Tenant. Tenant represents and warrants that it has not been paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Lease, other than normal costs of conducting business and costs of professional services such as architects, engineers and attorneys. Tenant acknowledges that Landlord is relying upon the foregoing representations and warranties in entering into this Lease and would not enter into this Lease absent the same.

34. NO PARTNERSHIP. The parties hereby acknowledge that it is not their intention under this Lease to create between themselves a partnership, joint venture, tenancy-in-common, joint tenancy, co-ownership or agency relationship for the purpose of developing the Leased Premises, or for any other purpose whatsoever. Accordingly, notwithstanding any expressions or provisions contained herein, nothing in this Lease or the other documents executed by the parties

with respect to the Leased Premises, whether based on the calculation of rental or otherwise, shall be construed or deemed to create, or to express an intent to create, a partnership, joint venture, tenancy-in-common joint tenancy, co-ownership or agency relationship of any kind or nature whatsoever between the parties hereto. The provisions of this paragraph shall survive Expiration of the Term.

35. MISCELLANEOUS.

(a) Captions. Captions of the Sections and Articles contained in this Lease are for convenience only and do not constitute a part of this Lease and do not limit, affect or construe the contents of such Sections or Articles.

(b) Severability. If any provision of this Lease shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

(c) Interpretation. All provisions of this Lease have been negotiated by both Landlord and Tenant, at arm's length, and neither Landlord or Tenant shall be deemed the scrivener of this Lease. This Lease shall not be construed for or against either Landlord or Tenant by reason of the authorship or alleged authorship of any provision hereof. As used herein, "business day" means any day other than a Saturday, Sunday or federal or Florida state holiday.

(d) Incorporation. This instrument shall constitute the entire Lease unless otherwise hereafter modified by both Landlord and Tenant in writing. All exhibits attached and referenced in this Lease are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Lease.

(e) Successors and Assigns. This instrument shall also bind and benefit, as the case may require, the heirs, legal representatives, assigns and successors of the respective parties, and all covenants, conditions and agreements herein contained shall be construed as covenants running with the land. This instrument shall not become binding upon Landlord and Tenant until it shall have been executed and delivered by both Landlord and Tenant.

(f) Legal Representation. Landlord and Tenant have each been afforded a full and fair opportunity to seek advice from legal counsel.

(g) No Recordation. This Lease shall not be recorded. However, a memorandum of lease (the "Memorandum of Lease"), in form reasonably acceptable to Landlord and Tenant, shall be recorded by Tenant, provided that Landlord shall cooperate in the execution of any documents reasonably requested by Tenant in connection with such recording.

(h) Governing Law. This Lease and the rights of the Parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Florida (without regard to conflicts of laws).

(i) Radon Gas. 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 gas 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 Public Health Unit.

(j) Interest of Tenant. Tenant shall have no interest in the Leased Premises other than its interest as Tenant under and pursuant to this Lease. No action of Tenant may deprive City of its fee simple title to the Leased Premises.

(k) No Merger. There shall be no merger of this Lease or of the leasehold estate hereby created with the fee estate or any part thereof by reason of the fact that the same Person may acquire or hold, directly or indirectly, this Lease or the leasehold estate hereby created or any interest in this Lease or in such leasehold estate as well as the fee estate or any interest in such fee estate.

(l) Person. As used herein, the term "Person" shall mean any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any Federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

(m) Affiliate. As used herein, the term Affiliate means with respect to a Person, any other Person that directly or indirectly Controls, is controlled by, or is under common Control with, the specified Person.

(n) Control. As used herein, the term Control means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise. Ownership of more than 50% of the: (a) beneficial interests of a Person shall be conclusive evidence that control exists, or (b) voting interests of a Person shall be conclusive evidence that control exists.

(o) Unavoidable Delays. As used herein, the term "Unavoidable Delay(s)" shall mean any delay which arises, directly or indirectly, from any strike, lockout, labor dispute, inability to obtain materials or labor (in each case outside the reasonable control of the Tenant), governmental restrictions, acts of war, act of public enemy, riot, insurrection, terrorist attack, governmental regulation, fire or other acts of God, abnormal weather conditions, litigation which causes a delay (other than litigation among and between the Tenant and its Affiliates) or other cause, similar or dissimilar to those enumerated above, beyond the control of Tenant (all of the causes set forth above being herein called "Unavoidable Delays").

(p) Single-Asset Entity. Tenant shall be maintained as a single-asset entity, owning no assets other than its interest in the Leased Premises. Notwithstanding anything contained in this Lease to the contrary the Tenant will have the absolute right to transfer this Lease to another Person in order to comply with this provision.

(q) Joint and Several. If after the execution hereof Tenant subsequently assigns all of Tenant's interest in the Lease or Leased Premises pursuant to Section 10(e) hereof to a new Tenant comprised of more than one Person, then the obligations imposed hereby on such assignee shall be joint and several between the Persons comprising such assignee.

EXECUTION

IN WITNESS WHEREOF, City and Tenant, intending to be legally bound, have executed this Lease as of the day and year first above written.

WITNESS:

CITY OF RIVIERA BEACH, FLORIDA

By: Michael D. Brown
Michael D. Brown, Mayor

ATTEST:

By: Carrie E. Ward
Carrie E. Ward, City Clerk

As to Form and Legal Sufficiency

By: Pamala H. Ryan
Pamala H. Ryan, City Attorney

By: _____
Mark Mustian, Special Counsel

By: William E. Wilkins
William E. Wilkins, City Manager

WITNESSES:

OMRD, LLC,
a Delaware limited liability company

By: Daniel Catalfamo
Daniel Catalfamo, its President

LIST OF EXHIBITS
Ground Lease/Retail

- A. LEASED PREMISES
- B. PERMITTED EXCEPTIONS
- C. STREETS AND SIDEWALKS TO BE ABANDONED

EXHIBIT "A"

LEGAL DESCRIPTION

EXHIBIT "A"

GROUND LEASE - RETAIL

LEGAL DESCRIPTION

PARCEL B, C, AND D, PLAT OF RIVIERA BEACH OCEAN TRACT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 98, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND TOGETHER WITH PORTIONS OF OCEAN AVENUE, NORTH OCEAN BOULEVARD, BEACH AVENUE AND BEACH COURT, ALSO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL A, AS SHOWN ON SAID PLAT OF RIVIERA BEACH OCEAN TRACT; THENCE ALONG THE WEST LINE OF SAID PARCEL A AND ALONG THE EAST RIGHT OF WAY LINE OF SAID OCEAN AVENUE, AS SHOWN ON SAID PLAT OF RIVIERA BEACH OCEAN TRACT, SOUTH 00°46'50" WEST, A DISTANCE OF 923.92 FEET; THENCE CONTINUE SOUTH 90°00'00" EAST, A DISTANCE OF 50.46 FEET; THENCE CONTINUE SOUTH 00°00'00" WEST, A DISTANCE OF 75.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE ALONG THE SOUTH LINE OF SAID PLAT OF RIVIERA BEACH OCEAN TRACT AND ITS WESTERLY EXTENSION, NORTH 90°00'00" WEST, A DISTANCE OF 509.93 FEET TO A POINT ON THE EAST LINE OF LOT 415, PALM BEACH SHORES, AS SHOWN ON PLAT BOOK 23, PAGES 29 THROUGH 32, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID EAST LINE OF LOT 415 AND ALONG THE WEST RIGHT OF WAY LINE OF NORTH OCEAN BOULEVARD, NORTH 02°36'30" EAST, A DISTANCE OF 98.18 FEET TO THE NORTHEAST CORNER OF SAID LOT 415; THENCE ALONG THE NORTH LINE OF SAID LOT 415, SOUTH 85°00'00" WEST, A DISTANCE OF 50.44 FEET TO THE INTERSECTION THEREOF WITH THE SOUTHERLY EXTENSION OF THE WEST RIGHT OF WAY LINE FOR BEACH COURT, AS SHOWN ON SAID PLAT OF PALM BEACH SHORES; THENCE ALONG SAID WEST RIGHT OF WAY LINE AND ITS SOUTHERLY EXTENSION, NORTH 02°36'30" EAST, A DISTANCE OF 290.37 FEET TO THE NORTHEAST CORNER OF LOT 425, AS SHOWN ON SAID PLAT OF PALM BEACH SHORES; THENCE ALONG THE SOUTH LINE OF LOT 426, AS SHOWN ON SAID PLAT OF PALM BEACH SHORES, SOUTH 87°23'30" EAST, A DISTANCE OF 50.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 426; THENCE ALONG THE WEST RIGHT OF WAY LINE OF NORTH OCEAN BOULEVARD, AS SHOWN ON SAID PLAT OF PALM BEACH SHORES, NORTH 02°36'30" EAST, A DISTANCE OF 408.75 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 30.00 FEET AND A CHORD BEARING OF NORTH 66°54'51" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 139°02'41", A DISTANCE OF 72.80 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 703 (A1A), AS SHOWN ON SAID PLAT OF PALM BEACH SHORES, SAID POINT ALSO BEING A POINT OF CUSP OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 623.69 FEET AND A CHORD BEARING OF NORTH 33°13'55" EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 20°39'46", A DISTANCE OF 224.92 FEET TO THE NON TANGENT INTERSECTION THEREOF WITH THE NORTH RIGHT OF WAY LINE OF OCEAN AVENUE, AS SHOWN ON SAID PLAT OF RIVIERA BEACH OCEAN TRACT; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD 703 (A1A) AND RUNNING ALONG SAID NORTH RIGHT OF WAY LINE OF OCEAN AVENUE, SOUTH 89°58'50" EAST, A DISTANCE OF 365.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 457,653 SQUARE FEET OR 10.506 ACRES, MORE OR LESS.

LESS AND EXCEPTING THEREFROM:

A PARCEL OF LAND BEING A PORTION OF PARCEL "C" AND A PORTION OF PARCEL "D", PLAT OF RIVIERA BEACH OCEAN TRACT; ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 98, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND TOGETHER WITH PORTIONS OF NORTH OCEAN BOULEVARD, BEACH AVENUE AND BEACH COURT, ALSO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID PARCEL "D"; THENCE ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID PARCEL "D", NORTH 90°00'00" WEST, A DISTANCE OF 100.10 FEET TO A POINT ON THE EAST LINE OF LOT 415, PALM BEACH SHORES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 23, PAGES 29 THROUGH 32, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID EAST LINE OF LOT 415 AND ALONG THE WEST RIGHT OF WAY LINE OF NORTH OCEAN BOULEVARD, NORTH 02°36'30" EAST, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL:

THENCE CONTINUE ALONG SAID EAST LINE OF LOT 415 AND ALONG SAID WEST RIGHT OF WAY LINE OF NORTH OCEAN BOULEVARD NORTH 02°36'30" EAST, A DISTANCE OF 48.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 415; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, NORTH 00°46'50" EAST, A DISTANCE OF 283.83 FEET TO A POINT ON THE SOUTH LINE OF LOT 426, AS SHOWN ON SAID PLAT OF PALM BEACH SHORES; THENCE ALONG SAID SOUTH LINE, SOUTH 87°23'30" EAST, A DISTANCE OF 9.05 FEET TO THE SOUTHEAST CORNER OF SAID LOT 426; THENCE ALONG THE WEST RIGHT OF WAY LINE OF SAID NORTH OCEAN BOULEVARD, NORTH 02°36'30" EAST, A DISTANCE OF 33.56 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, SOUTH 90°00'00" EAST, A DISTANCE OF 230.17 FEET; THENCE SOUTH 00°46'50" WEST, A DISTANCE OF 365.03 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 241.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 87,425 SQUARE FEET OR 2.007 ACRES, MORE OR LESS.

CONTAINING A TOTAL OF 370,228 SQUARE FEET OR 8.499 ACRES, MORE OR LESS.

EXHIBIT "B"

PERMITTED EXCEPTIONS

EXHIBIT B
TO
THE GROUND LEASE-RETAIL
(Permitted Exceptions)

1. Taxes for the year 2007, which are not yet due and payable.
2. Subject to rights of tenants under unrecorded leases, if any.
3. All matters contained on the Plat of Riviera Beach Ocean Tract, as recorded in Plat Book 30, page 98, Public Records of Palm Beach County, Florida.
4. Landscaping Easement recorded in O.R. Book 2514, Page 1547, Public Records of Palm Beach County, Florida.
5. Electrical Easement recorded in O.R. Book 2514, Page 1555, Public Records of Palm Beach, County, Florida.
6. Easement to Florida Power and Light Company recorded in O.R. Book 2514, Page 884, Public Records of palm Beach County, Florida.
7. Notice that Lessor's Interest Not Subject to Liens For Improvements Made by Any Lessee recorded in O.R. Book 9347, Page 482, Public Records of palm Beach County, Florida.
8. Private easement rights of other owners of the subdivision known as Riviera Beach Ocean Tract, recorded in Plat Book 30, Page 98, Public Records of Palm Beach County, Florida, to the use of vacated streets.¹
9. Private easement rights of other owners of the subdivision known as South Shore Estates, recorded in Plat Book 23, Page 29, Public Records of palm Beach County, Florida, to the use of the vacated street.²

¹ Such exceptions will be deleted if and when said easements rights are abandoned in accordance with the Lease.

² Such exceptions will be deleted if and when said easements rights are abandoned in accordance with the Lease.

EXHIBIT "C"

STREETS AND SIDEWALKS TO BE ABANDONED

This exhibit will be attached on or prior to the date that Tenant has received site plan approval for the construction of the Buildings and Site Improvements.

BOC-FS1\407733v22\091925.010100

EXECUTION

IN WITNESS WHEREOF, City and Tenant, intending to be legally bound, have executed this Lease as of the day and year first above written.

CITY OF RIVIERA BEACH, FLORIDA

WITNESS:

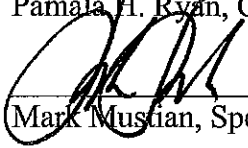
By: _____
Michael D. Brown, Mayor

ATTEST:

By: _____
Carrie E. Ward, City Clerk

As to Form and Legal Sufficiency

By: _____
Pamala H. Ryan, City Attorney

By:  _____
Mark Mustian, Special Counsel

By: _____
William E. Wilkins, City Manager

WITNESSES:

OMRD, LLC,
a Delaware limited liability company

By: _____
Name: _____

Exhibit B

First Amendment To Ground Lease - Retail Ocean Mall (05/15/2013)

**FIRST AMENDMENT TO GROUND LEASE --RETAIL
OCEAN MALL**

This First Amendment to Ground Lease – Retail (“Amendment”) is made and entered into as of May 15, 2013, by and between the **CITY OF RIVIERA BEACH**, a municipal corporation existing under the laws of the State of Florida (the “City”), and **GSF FLORIDA RETAIL LLC**, a Delaware limited liability company (the “Tenant”).

WITNESSETH:

WHEREAS, on or about December 18, 2006, the City, as Landlord, entered into a retail ground lease (the “Lease”) for certain premises known as the Ocean Mall (the “Premises”) with **OMRD, LLC**, a Delaware limited liability company, as Tenant (“OMRD”); and

WHEREAS, the City, **OMRD**, and the Riviera Beach Community Redevelopment Agency also entered into a Disposition and Development Agreement dated December 18, 2006 (“DDA”) setting out the responsibilities for the development of the Premises in two phases (Phase I and Phase II) and certain surrounding City owned property; and

WHEREAS, the DDA set out certain obligations within Section 5.02, with respect to construction of the Ocean Mall and surrounding City owned property; and

WHEREAS, on or about April 24, 2013, **GSF Florida Retail LLC** became the Tenant under the Lease by virtue of being the winning bidder at the foreclosure sale held in the foreclosure action on the lien of the leasehold mortgage originally held by Branch Banking and Trust Company and subsequently assigned to **GSF Trust 2011-1**; and

WHEREAS, immediately after the foreclosure sale on the leasehold mortgage, the Tenant paid the City \$300,000 to extend the construction completion date of Phase I under the DDA on the Premises to May 31, 2013;

WHEREAS, the parties hereby agree and acknowledge that Phase II of the DDA was terminated on or about May 21, 2013;

WHEREAS, the parties hereby agree to enter into this Amendment to facilitate a further extension to complete the Phase I construction required of the Tenant by the DDA; and

WHEREAS, the parties hereby agree that notwithstanding the extension being given under the Lease to complete the Phase I construction defined under the DDA through May 31, 2014, the DDA itself has expired by its terms on or about May 31, 2013 and is therefore also deemed terminated.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and Tenant agree as follows:

Section 1. That section 14 (a)(vi) of Article 14, entitled "Default and Remedies" of the Lease is hereby deleted in its entirety as follows:

14(a) Each of the following events shall be an "Event of Default" hereunder:

~~(vi) if Tenant fails to observe or perform in any material respect the provisions of Section 13.01(e) of the Disposition and Development Agreement, dated as of December 18, 2006, among the Landlord, the Riviera Beach Community Redevelopment Agency and the Tenant, which results in a termination of the Disposition and Development Agreement in accordance with Section 14.01 thereof with respect to the Phase I Development (as such term is defined in the Disposition and Development Agreement); or~~

Section 2. That the Lease shall be amended by adding a new section 36 entitled "FINAL EXTENSION AND PAYMENT" as follows:

By payment of \$250,000.00 to the City on or before May 31, 2013, Tenant will be granted an extension to complete the Phase I Development as defined by the DDA ("Phase I") for a period of one year. Tenant shall complete Phase I Development on or before May 31, 2014. In the event the \$250,000.00 is not paid timely, the Lease shall be immediately extinguished and the property shall be surrendered to the City. In the event Phase I is not completed (certificate of occupancy issued) by May 31, 2014, the Lease shall automatically terminate and the property shall be surrendered to the City.

Tenant shall be granted an extension to complete Phase I beyond May 31, 2014, only if the cause of the failure to complete Phase I is based upon an "Unavoidable Delay" as defined in Section 35(o) of the Lease. In the event any delay in the completion of the Phase I Development, as defined by the DDA, beyond May 31, 2014, is caused by an "Unavoidable Delay" as defined in Section 35(o) of the Lease, Tenant shall be given additional time to complete Phase I, provided that Tenant shall diligently pursue completion of Phase I. In the event Tenant shall not diligently pursue completion of Phase I Development, as defined by the DDA, after the Unavoidable Delay has ceased to exist, the extension of time given to complete Phase I as a result of an Unavoidable Delay shall cease, and upon notice by the City, the Lease shall immediately terminate, and the Tenant shall surrender the property to the City without any Notice of Default or cure periods required.

Section 3. The parties recognize that the rent payment under the Lease for 2012 is \$27,325.29. The rent payment was due on April 1, 2013. In addition to making the 2012 rent payment immediately (which shall include any late fees due), Tenant agrees to pre-pay \$\$27,325.29 by June 1, 2013, as partial rent payment for 2013. If the actual rent payment for 2013 ultimately exceeds \$27,325.29, then Tenant agrees to pay said

difference by April 1, 2014. If the actual rent payment for 2013 is less than \$27,325.29, then the City shall credit Tenant that amount for lease year 2014.

Section 4. Tenant agrees to complete all items on the List of Deficiencies (except for item #14), attached hereto as Exhibit A, within 45 days of May 15, 2013 (by June 28, 2013). Tenant shall provide the City with a written status update concerning each item by June 7, 2013, and shall advise the City Community Development Director in writing when the list has been completed. Failure to complete the list within 45 days (by June 28, 2013), shall result in the Tenant being fined by the City the sum of \$100 per day until all items on Exhibit A are completed. Tenant has thirty (30) days to pay any fine levied; otherwise, it will be subject to Default as defined in the Lease.

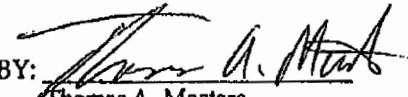
Section 5. In all other respects, the remainder of the Lease shall remain in full force and effect and unmodified, and the parties agree to perform all duties and obligations as set forth therein. In the event there is a conflict between the Lease and this Amendment, the Amendment shall control. This Amendment may be signed in any number of counterparts, all of which taken together shall constitute one complete and whole Amendment.

[SIGNATURES ON FOLLOWING PAGE]

AMENDMENT TO GROUND LEASE -RETAIL
OCEAN MALL


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

CITY OF RIVIERA BEACH
(LANDLORD)

BY: 
Thomas A. Masters
Mayor

TENANT

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company
By: ~~GSF Trust 2011-1~~, its manager.

BY: 
Name: JULIAN WELDON
Title: SECRETARY

ATTEST:

BY: _____
Carrie E. Ward
City Clerk, MMC

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

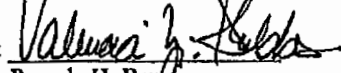
BY: 
Pamala H. Ryan
City Attorney

EXHIBIT A
LIST OF DEFICIENCIES

Building issues:

- 1) Broken sidewalk by 7-Eleven needs to be fixed (tripping hazard). Replace damaged section of walkway.
- 2) Re strap vent pipe. Needs to be secured at the north building by the elevator.
- 3) Extra pipes by electrical services need caps to seal them not duct tape. Cap pipes with hard caps to prevent water and vermin from entry into buildings.
- 4) Remove pipe half buried on the south side of the parking lot. It is a tripping hazard.
- 5) Need to unclog roof drain on south building. Water is coming out of overflow and landing on sidewalk. Check roof drains and remove any impediments to water flow through drains.
- 6) Powder coat on 2nd floor railing is peeling in places. Sand and paint areas where powder coating is peeling.
- 7) The walls need touch up paint where it is peeling. Where signs have been removed, paint needs to be touched up. Repaint any areas with discoloration and peeling that need repainting.
- 8) Clean second floor walkway. It has debris and a lot of trash on it.
- 9) Some of the lights are on in the daytime. Check the timers and/or photo cells to verify they are set correctly.
- 10) There are bird nests in many of the light housings over the walk ways. Clean out all light housings. It is a fire hazard.
- 11) Need to pressure wash and clean pavers outside of the Johnny Longboats restaurant.
- 12) Dumpster enclosures and pavement in front of them are unsanitary. Pressure wash dumpster areas.
- 13) Remove signage from closed businesses (e.g., Wing Flyer Store).
- 14) Existing South parking lot staging area may be used by the Tenant for staging during the demolition and construction of remaining pre 2010 buildings-(existing

location of 7-11) and must be restored to a functional safe, permitted parking lot area, as approved by the City Building Official, within 60 days of leaseholder obtaining certificate of occupancy from the City for the newly reconstructed building. The Tenant agrees to be responsible for the site until it is turned back over to the City and will indemnify the City from claims etc. as set out in section 18 of the Lease. Tenant shall also be responsible for the cost of reconstructing the parking lot.

Landscaping and irrigation issues:

- 1) Replace mulch and ground cover (dune sunflower) in all landscaped areas and islands in accordance with the Ocean Mall City's landscape code. Ground cover and mulch should be replaced around the entire Ocean Mall and parking lots. There should be no bare ground. After completion leaseholder must verify with Community Development that all work meets City code.
- 2) Remove trash from all landscape areas and islands around the entire Ocean Mall and Parking lots.
- 3) Sod between new building and old building needs to be replaced. Replace sod in all areas where there is bare ground where sod should be.
- 4) Remove Australian pine (invasive tree) in front of 7-Eleven.
- 5) Replace dead palm tree at east side of middle drive entrance going east and west between north and south parking lots.
- 6) Prune any shade trees to City Code landscape standards in west of building parking lots.
- 7) Replace all missing sprinkler and drip heads on irrigation system.
- 8) Remove Jersey Barriers from south parking lot and landscape and install irrigation along perimeter of south parking lot with landscaping materials similar to landscaping materials in main east/west entry drive aisle, i.e., cabbage palms, silver buttonwood, red tip cocoplums, green island ficus and dune sunflower. Cabbage palms must be planted no less than 8 to 10 feet apart.

Exhibit C

Second Amendment To Ground Lease - Retail Ocean Mall (01/2014)

**SECOND AMENDMENT TO GROUND LEASE – RETAIL
OCEAN MALL**

This Second Amendment to Ground Lease – Retail (“Second Amendment”) is made and entered into as of January ____, 2014, by and between the **CITY OF RIVIERA BEACH**, a municipal corporation existing under the laws of the State of Florida (the “City”), and **GSF FLORIDA RETAIL LLC**, a Delaware limited liability company (the “Tenant”).

WITNESSETH:

WHEREAS, on or about December 18, 2006, the City, as Landlord, entered into a retail ground lease (the “Lease”) for certain premises known as the Ocean Mall (the “Premises”) with OMRD, LLC, a Delaware limited liability company, as Tenant (“OMRD”); and

WHEREAS, the City, OMRD, and the Riviera Beach Community Redevelopment Agency also entered into a Disposition and Development Agreement dated December 18, 2006 (“DDA”) setting out the responsibilities for the development of the Premises in two phases (Phase I and Phase II) and certain surrounding City owned property; and

WHEREAS, the DDA set out certain obligations within Section 5.02, with respect to construction of the Ocean Mall and surrounding City owned property; and

WHEREAS, on or about April 24, 2013, GSF Florida Retail LLC became the Tenant under the Lease by virtue of being the winning bidder at the foreclosure sale held in the foreclosure action on the lien of the leasehold mortgage originally held by Branch Banking and Trust Company and subsequently assigned to GSF Trust 2011-1; and

WHEREAS, immediately after the foreclosure sale on the leasehold mortgage, the Tenant paid the City \$300,000 to extend the construction completion date of Phase I under the DDA on the Premises to May 31, 2013; and

WHEREAS, on or about May 15, 2013, the parties entered into the First Amendment to Ground Lease – Retail (the “First Amendment”) to facilitate further extension to complete the Phase I construction required of the Tenant by the DDA to May 31, 2014; and

WHEREAS, the First Amendment provides that in the event that Phase I is not completed by May 31, 2014, the Lease will automatically terminate and the Premises will be surrendered to the City, except in the instance that failure to complete Phase I is based upon “Unavoidable Delay” as defined in Section 35(o) of the Lease; and

WHEREAS, the City wishes to alter the Leased Premises to exclude a certain portion of land previously included, commonly referred to as the North Ocean Boulevard Strip, the new legal description for the Leased Premises is attached hereto as Exhibit “A” (“New Legal Description”);

WHEREAS, the parties hereby agree to enter into this Second Amendment to: (a) extend the Phase I Completion Date from May 31, 2014 to March 28, 2015, and to provide the Tenant with up to an additional 12 monthly extensions beyond March 28, 2015 to effectuate the Phase I completion; (b) to amend Section 25(d) and Section 36 of the Lease (which was added in the First Amendment) to provide the Leasehold Mortgagee the right to enter into a new lease with the City upon the termination of the Lease with Tenant, pursuant to Section 36 or other Event of Default, as defined in Article 14 of the Lease; (c) to provide the Leasehold Mortgagee with eighteen (18) months after the Leasehold Mortgagee or its designee becomes the "Tenant" to complete construction of the Phase I Development; and (d) to revise the legal description of the Leased Premises to exclude the North Ocean Boulevard Strip and to encompass only the property set out in the New Legal Description attached hereto as Exhibit "A".

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and Tenant agree as follows:

Section 1. That section 25(d) of Article 25 of the Lease, entitled "LEASEHOLD MORTGAGE" is hereby amended as follows:

(d) New Lease. In the event of the rejection or disaffirmance of this Lease pursuant to bankruptcy law or other law affecting creditors' rights, if requested by any Leasehold Mortgagee in writing within thirty (30) days of such rejection or disaffirmance, ~~Landlord shall or if this Lease terminates for any reason (except with Leasehold Mortgagee's consent), Landlord shall promptly give Leasehold Mortgagee written notice stating that the Lease has terminated, and describing in reasonable detail any uncured Event(s) of Default (a "Landlord's Lease Termination Notice"). By giving notice to Landlord on or before thirty (30) days after Leasehold Mortgagee receives Landlord's Lease Termination Notice, Leasehold Mortgagee may require Landlord to promptly enter into a new lease of the Leased Premises with the Leasehold Mortgagee or its designee, as new tenant.~~ Such new lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection or disaffirmance, and upon all the terms and provisions contained in the Lease. Such written request by any Leasehold Mortgagee shall be accompanied by a copy of such proposed new lease, duly executed, and acknowledged by the proposed new assignee tenant, and the Leasehold Mortgagee shall have cured (or caused to be cured) all defaults under this Lease which are susceptible to being cured by the Leasehold Mortgagee and paid to Landlord all reasonable costs and expenses including and reasonable attorney's fees incurred by Landlord in connection with the Events of Default upon which the termination was premised, termination of the Lease with Tenant, recovery of the Premises, and the preparation, execution and delivery of the replacement new lease, as applicable. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Lease Premises as the Lease. The provisions of this Section shall survive the termination, rejection or disaffirmance of this Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by Landlord, Tenant and the Leasehold Mortgagee. The new lease shall be on the same terms and conditions as this Lease and shall have the same priority as this Lease. Landlord's obligation to enter into the new lease shall be conditioned upon the following: (i) the Leasehold Mortgagee shall have cured all monetary defaults and commenced, and diligently prosecuted, the

cure of all reasonably curable non-monetary defaults; and (ii) the Leasehold Mortgagee shall reimburse Landlord for all reasonable costs and expenses incurred in reviewing the new lease.

Section 2. That the following new section 25(j) to Article 25 of the Lease, entitled "LEASEHOLD MORTGAGE" is hereby added to the Lease immediately after existing section 25(i):

(j) Requirement to Complete Phase I Development. If the Leasehold Mortgagee or its designee becomes the "Tenant" under this Lease or under a new lease (as contemplated by Section 25(d) above), then the Phase I Completion Date (defined below) shall be extended to the date that is eighteen (18) months after the effective date that the Leasehold Mortgagee or its designee actually becomes the "Tenant" under the new lease.

Section 3. That Article 36 of the Lease (which was added in the First Amendment), entitled "FINAL EXTENSION AND PAYMENT" is hereby amended as follows:

36. FINAL EXTENSION AND PAYMENT

By payment of \$150,000.00 to the City simultaneously with the execution and delivery of this Second Amendment to Ground Lease, to the City \$250,000 on or before May 31, 2013, Tenant will be granted an additional extension to complete the Phase I Development as defined by the DDA ("Phase I") for a period of one year to March 28, 2015 ("Initial Phase I Completion Date"). Further, the Tenant shall be granted additional monthly extensions to complete Phase I by payment of \$41,666.66 for each month after March 28, 2015, that Tenant does not complete Phase I, not to exceed twelve (12) months (the "Phase I Completion Date Extensions"). The extension fee payments required for each of the Phase I Completion Date Extensions, if utilized by the Tenant, shall be paid to the City (as Additional Rent) beginning April 1, 2015, and shall be paid on the 1st of every month thereafter, as needed. (The Initial Phase I Completion Date and any applicable Phase I Completion Date Extensions shall be collectively referred to as the "Phase I Completion Date"). Tenant shall complete Phase I on or before May 31, 2014 the Phase I Completion Date. In the event the \$250,000.00 is not paid timely, the Lease shall be immediately extinguished and the property shall be surrendered to the City. In the event Phase I is not completed (certificate of occupancy issued), as evidenced by a certificate of occupancy issued on Phase I, by May 31, 2014 the Phase I Completion Date, the Lease shall automatically terminate and the property shall be surrendered to the City the City shall promptly give the Leasehold Mortgagee notice of such termination, in accordance with Section 25(d). Leasehold Mortgagee shall have the right to enter into a new lease with the City in accordance with Section 25(d).

Tenant shall be granted a further an extension to complete Phase I beyond May 31, 2014 the Phase I Completion Date, only if the cause of the failure to complete Phase I is based upon an "Unavoidable Delay" as defined in Section 35(o) of the Lease. In the event any delay in the completion of the Phase I Development, as defined by the DDA, beyond May 31, 2014 the Phase I Completion Date, is caused by an "Unavoidable Delay" as defined in Section 35(o) of the Lease, Tenant shall be given additional time to complete Phase I, provided that Tenant shall diligently pursue completion of Phase I. In the event Tenant shall not diligently pursue

completion of Phase I Development, as defined by the DDA, after the Unavoidable Delay has ceased to exist, the extension of time given to complete Phase I as a result of an Unavoidable Delay shall cease, and upon notice by the City, the Lease shall immediately terminate, and the Tenant shall surrender the property to the City without any Notice of Default or cure periods required.

Section 4. The City and Tenant confirm and acknowledge that the Phase I work remaining to be performed is the construction of an approximately 6,900 square foot building for retail space, as may be modified by written agreement by Tenant and the City. Completion will be evidenced by Certificate of Completion for the building and specifically will not include any tenant improvement work. The City and Tenant further confirm and acknowledge completion by Tenant of all items on the List of Deficiencies attached to the First Amendment, with the exception of Item 14 of the Building Issues and Item 8 of the Landscaping and Irrigation Issues which are to be completed in connection with Phase I.

Section 5. Section 1 and Exhibit "A" of the Lease shall be revised as follows:

Section 1 of the Lease shall be deemed modified to reduce the square footage of the Leased Premises from approximately 370,228 square feet to approximately 357,121 square feet, to exclude the North Ocean Boulevard Strip.

Exhibit "A" to the Lease shall be removed and replaced with the New Legal Description which shall bear the title Exhibit "A."

Section 6. In all other respects, the remainder of the Lease and the First Amendment shall remain in full force and effect, and the parties agree to perform all duties and obligations as set forth therein. In the event there is a conflict between the Lease, the First Amendment and this Second Amendment, this Second Amendment shall control.

[SIGNATURES ON FOLLOWING PAGE]

**SECOND AMENDMENT TO GROUND LEASE – RETAIL
OCEAN MALL**

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

LANDLORD

TENANT

CITY OF RIVIERA BEACH

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

BY: _____
Thomas A. Masters
Mayor

BY: _____
Name: _____
Title: _____

ATTEST:

BY: _____
Carrie E. Ward, MMC
City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
Pamala H. Ryan, B.C.S.
City Attorney

DATE: _____

WITNESSES FOR LANDLORD

WITNESSES FOR TENANT

Print Name: _____

Print Name: _____

Print Name: _____

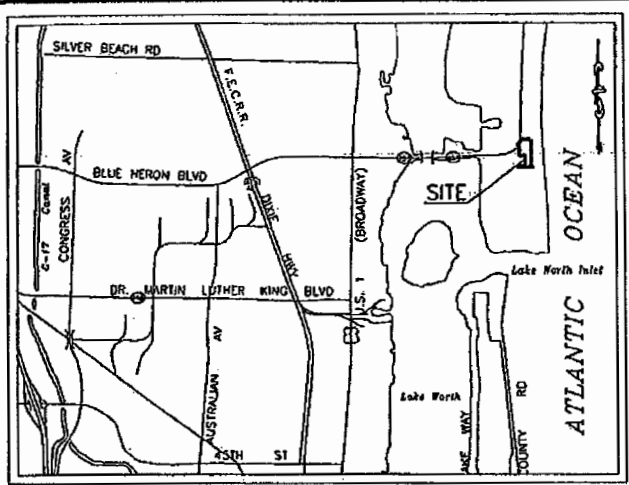
Print Name: _____

EXHIBIT A

Legal Description of the Leased Premises

[attached]

Z:\2013\135578 City of Riviera Beach CRA Marine District South Improvements\Survey\SKETCH\13-5578-V-SD-EXHIBIT A.dwg



LOCATION MAP
NOT TO SCALE

SKETCH AND LEGAL DESCRIPTION
(THIS IS NOT A SURVEY)
PALM BEACH COUNTY, FLORIDA

DESCRIPTION:

PARCEL "B" AND PORTIONS OF PARCELS "C" AND "D" OF THE PLAT OF RIVERA BEACH OCEAN TRACT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGES 98 AND 99, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND TOGETHER WITH PORTIONS OF OCEAN AVENUE, NORTH OCEAN BOULEVARD AND BEACH AVENUE, ALSO BEING MORE PARTICULAR DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL "A", AS SHOWN ON SAID PLAT OF RIVERA BEACH OCEAN TRACT; THENCE ALONG THE WEST LINE OF SAID PARCEL "A" AND ALONG THE EAST RIGHT OF WAY LINE OF SAID OCEAN AVENUE, AS SHOWN ON SAID PLAT OF RIVERA BEACH OCEAN TRACT, SOUTH 00°46'50" WEST, A DISTANCE OF 923.71 FEET; THENCE CONTINUE ALONG SAID WEST LINE OF PARCEL "A", SOUTH 90°00'00" EAST, A DISTANCE OF 50.46 FEET; THENCE CONTINUE ALONG SAID WEST LINE OF PARCEL "A", SOUTH 00°00'00" WEST, A DISTANCE OF 75.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE ALONG THE SOUTH LINE OF SAID PLAT OF RIVERA BEACH OCEAN TRACT AND IT'S WESTERLY EXTENSION, NORTH 90°00'00" WEST, A DISTANCE OF 509.93 FEET TO A POINT ON THE EAST LINE OF LOT 415, PALM BEACH SHORES, AS SHOWN ON PLAT BOOK 23, PAGES 29 THROUGH 32, OF SAID PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID EAST LINE OF LOT 415 AND ALONG THE WEST RIGHT OF WAY LINE OF NORTH OCEAN BOULEVARD, NORTH 02°36'30" EAST, A DISTANCE OF 50.05 FEET; THENCE LEAVING SAID EAST LOT LINE AND WEST RIGHT OF WAY LINE, NORTH 90°00'00" EAST, A DISTANCE OF 241.83 FEET; THENCE NORTH 00°46'50" EAST, A DISTANCE OF 365.03 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 230.17 FEET; THENCE ALONG THE AFORESAID WEST RIGHT OF WAY LINE OF NORTH OCEAN BOULEVARD AS SHOWN ON SAID PLAT OF PALM BEACH SHORES, NORTH 02°36'30" EAST, A DISTANCE OF 375.18 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 30.00 FEET AND A CHORD BEARING OF NORTH 66°54'51" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 139°02'41", AND AN ARC DISTANCE OF 72.80 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 703 (A1A), AS SHOWN ON SAID PLAT OF PALM BEACH SHORES, SAID POINT ALSO BEING THE POINT OF CUSP OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 623.69 FEET AND A CHORD BEARING OF NORTH 33°14'28" EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 20°38'41", AND AN ARC DISTANCE OF 224.73 FEET TO THE NON-TANGENT INTERSECTION THEREOF WITH THE NORTH RIGHT OF WAY LINE OF OCEAN AVENUE AS SHOWN ON SAID PLAT OF RIVERA BEACH OCEAN TRACT; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD 703 (A1A) AND RUNNING ALONG SAID NORTH RIGHT OF WAY LINE OF OCEAN AVENUE, SOUTH 89°58'36" EAST, A DISTANCE OF 365.26 FEET TO THE POINT OF BEGINNING.

NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED PROFESSIONAL SURVEYOR AND MAPPER. THIS INSTRUMENT MAY NOT BE REPRODUCED IN PART OR WHOLE WITHOUT THE CONSENT OF CALVIN, GIORDANO AND ASSOCIATES, INC.
2. LANDS DESCRIBED HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR OWNERSHIP, EASEMENTS, RIGHTS-OF-WAY OR OTHER INSTRUMENTS THAT MAY APPEAR IN THE PUBLIC RECORDS OF PALM BEACH COUNTY.
3. BEARINGS SHOWN HEREON ARE RELATIVE TO THE PLAT OF RIVERA BEACH OCEAN TRACT AS RECORDED IN PLAT BOOK 30, PAGES 98 AND 99, PALM BEACH COUNTY RECORDS, WITH THE SOUTH LINE HAVING A BEARING OF NORTH 00°00'00" WEST.
4. THE DESCRIPTION CONTAINED HEREIN AND THE ATTACHED SKETCH DOES NOT REPRESENT A FIELD BOUNDARY SURVEY.

CALVIN, GIORDANO & ASSOCIATES, INC.
 SIGNED: *David E. Rohal* DATED: 11-22-13
 DAVID E. ROHAL
 PROFESSIONAL SURVEYOR AND MAPPER NO. LS 4315
 STATE OF FLORIDA

GA Calvin, Giordano & Associates, Inc.
 EXCEPTIONAL SOLUTIONS
 560 Village Boulevard, Suite 340 West Palm Beach, Florida 33409
 Phone: 561.684.6161 Fax: 561.684.6360
 Certificate of Authorization 6791

SKETCH AND LEGAL DESCRIPTION
OCEAN MALL
 PALM BEACH COUNTY, FLORIDA

SCALE 1" = 200'	PROJECT No 13-5578	SHEET 1
DATE 11/22/13	CAD FILE SEE LEFT	OF 2

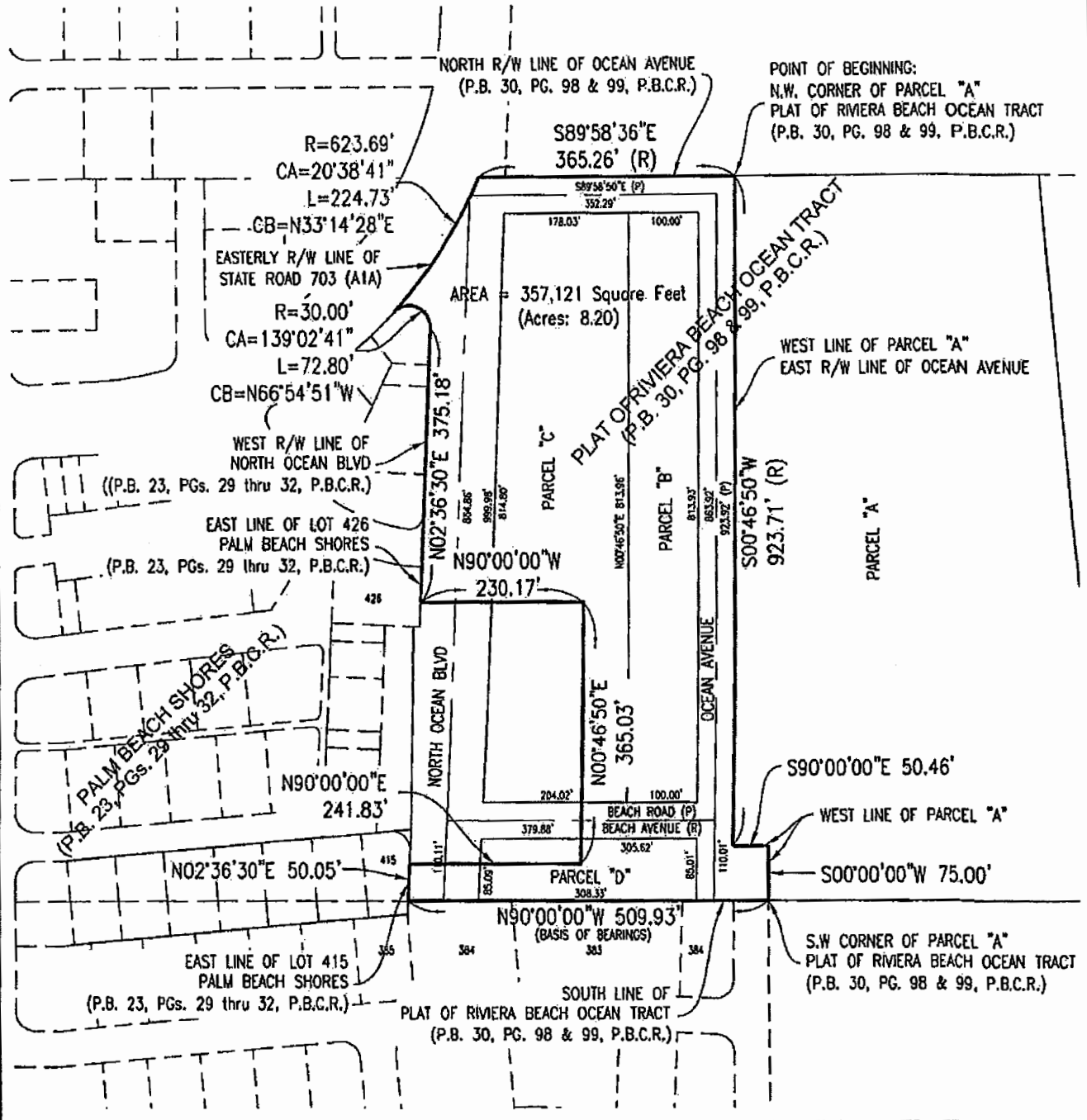
Exhibit A

Z:\2013\135578 City of Riviera Beach CRA Marine District South Improvements\Survey\SKETCH\13-5578-V-SD-EXHIBIT A.dwg



SCALE
1" = 200'

- LEGEND:**
- BLVD BOULEVARD
 - C.A. CENTRAL ANGLE (DELTA)
 - C.B. CHORD BEARING
 - L. ARC LENGTH
 - LB LICENSED BUSINESS
 - P.B.C.R. PALM BEACH COUNTY RECORDS
 - P.B. PLAT BOOK
 - PG PAGE
 - R RADIUS
 - R/W RIGHT-OF-WAY
 - (R) RECORD
 - (P) PLAT



Calvin, Giordano & Associates, Inc.
 EXCEPTIONAL SOLUTIONS
 500 Village Boulevard, Suite 340 West Palm Beach, Florida 33409
 Phone: 561.684.6161 Fax: 561.684.6360
 Certificate of Authorization 0791

SKETCH AND LEGAL DESCRIPTION
OCEAN MALL
 PALM BEACH COUNTY, FLORIDA

SCALE 1" = 200'	PROJECT No 13-5578
DATE 11/22/13	CAD FILE SEE LEFT

SHEET
2
OF
2

Exhibit D

Third Amendment To Ground Lease - Retail Ocean Mall (03/2014)

**THIRD AMENDMENT TO GROUND LEASE – RETAIL
OCEAN MALL**

This Third Amendment to Ground Lease – Retail (“Third Amendment”) is made and entered into as of March ____, 2014, by and between the **CITY OF RIVIERA BEACH**, a municipal corporation existing under the laws of the State of Florida (the “City”), and **GSF FLORIDA RETAIL LLC**, a Delaware limited liability company (the “Tenant”).

WITNESSETH:

WHEREAS, on or about December 18, 2006, the City, as Landlord, entered into a retail ground lease (as amended, the “Lease”) for certain premises known as the Ocean Mall (the “Premises”) with OMRD, LLC, a Delaware limited liability company, as Tenant (“OMRD”); and

WHEREAS, the City, OMRD, and the Riviera Beach Community Redevelopment Agency also entered into a Disposition and Development Agreement dated December 18, 2006 (“DDA”) setting out the responsibilities for the development of the Premises and certain surrounding City owned property; and

WHEREAS, on or about April 24, 2013, GSF Florida Retail LLC became the Tenant under the Lease by virtue of being the winning bidder at the foreclosure sale held in the foreclosure action on the lien of the leasehold mortgage originally held by Branch Banking and Trust Company and subsequently assigned to GSF Trust 2011-1; and

WHEREAS, on or about May 15, 2013, the City and GSF Florida Retail LLC (collectively “the parties”) entered into the First Amendment to Ground Lease – Retail (the “First Amendment”) to facilitate further extension to complete the Phase I construction required of the Tenant by the DDA to May 31, 2014; and

WHEREAS, on or about January 15, 2014, the parties entered into a Second Amendment to Ground Lease—Retail (the “Second Amendment”): (a) to release to the City a portion of the land previously included in the Leased Premises and to revise the legal description of the Premises; (b) to extend certain deadlines for completion of certain improvements at the Premises pursuant to the DDA; and (c) to provide certain rights to a lender under any leasehold mortgage given by Tenant on the Premises; and

WHEREAS, the City has agreed to grant Tenant the right to use a parcel of real property owned by the City and adjacent to the Premises, for parking spaces for the benefit of the Premises and to enable Tenant to comply with the requirements of Section 4(d) of the Lease, and to amend Section 4(d) with respect to any revenues derived from the use of the parking areas; and

WHEREAS, the parties hereby agree to enter into this Third Amendment to: (a) grant certain rights to Tenant in City property for compliance by Tenant with the parking requirements in the Lease; (b) to amend Section 4(d) with respect to any revenues from any parking meters

installed on the Premises and on the additional parking areas; (c) to allow the Tenant sufficient time to obtain additional accessible parking for the benefit of City residents, Subtenants and others using the Premises, their guests and invitees; and (d) to extend the Initial Phase I Completion Date based on the delay in commencement of construction caused by issues arising on parking at the Premises.

NOW, THEREFORE, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration receipt of which is hereby acknowledged, the City and Tenant agree as follows:

Section 1. That Section 4(d) of the Lease, entitled "USE" is hereby amended as follows:

(d) Tenant will at all times provide at least 400 spaces of accessible parking and safe access to the beach for citizens of the City desiring to utilize the City's beachfront park and beach. These parking spaces may also be utilized by Subtenants or others utilizing the Leased Premises. The Tenant may not impose a charge for utilizing this parking. The City may, at any time, by reasonable notice to the Tenant, (i) charge for special event parking utilizing such spaces, and (ii) ~~with the approval of Tenant, such approval not be unreasonably withheld,~~ place meters or other charges on those utilizing such parking spaces, all revenue from any charges imposed pursuant to this section 4(d) subparagraph (ii) hereof to be split equally between Tenant and Landlord. ~~shall belong to the City.~~ Further, the 24 parking spaces located on and provided by the parcel excluded from the Premises pursuant to the Second Amendment shall be included in the calculation of the number of parking spaces required by the Lease. The inclusion of the 24 parking spaces shall be used in determining the compliance with the minimum 400 spaces referenced herein.

Section 2. That Article 36 of the Lease (which was added in the First Amendment and amended in the Second Amendment), entitled "FINAL EXTENSION AND PAYMENT" is hereby amended as follows:

36. FINAL EXTENSION AND PAYMENT

By payment of \$150,000.00 to the City simultaneously with the execution and delivery of this Second Amendment to Ground Lease, Tenant will be granted an additional extension to complete the Phase I Development as defined by the DDA ("Phase I") to March 28, 2015 ("Initial Phase I Completion Date"). The parties acknowledge payment of the \$150,000.00. Tenant will be granted a further additional extension to complete the Phase I Development to June 30, 2015. Further, the Tenant shall be granted additional monthly extensions to complete Phase I by payment of \$41,666.66 for each month after ~~March 28~~ June 30, 2015, that Tenant does not complete Phase I, not to exceed twelve (12) months (the "Phase I Completion Date Extensions"). The extension fee payments required for each of the Phase I Completion Date Extensions, if utilized by the Tenant, shall be paid to the City (as Additional Rent) beginning ~~April 1, July 1, 2015~~, and shall be paid on the 1st of every month thereafter, as needed. (The Initial Phase I Completion Date and any applicable Phase I Completion Date Extensions shall be collectively referred to as the "Phase I Completion Date"). Tenant shall complete Phase I on or before the Phase I Completion Date. In the event Phase I is not completed as evidenced by a

certificate of occupancy issued on Phase I, by the Phase I Completion Date, the Lease shall automatically terminate and the City shall promptly give the Leasehold Mortgagee notice of such termination, in accordance with Section 25(d). Leasehold Mortgagee shall have the right to enter into a new lease with the City in accordance with Section 25(d).

Tenant shall be granted a further extension to complete Phase I beyond the Phase I Completion Date, only if the cause of the failure to complete Phase I is based upon an "Unavoidable Delay" as defined in Section 35(o) of the Lease. In the event any delay in the completion of the Phase I Development, as defined by the DDA, beyond the Phase I Completion Date, is caused by an "Unavoidable Delay" as defined in Section 35(o) of the Lease, Tenant shall be given additional time to complete Phase I, provided that Tenant shall diligently pursue completion of Phase I. In the event Tenant shall not diligently pursue completion of Phase I Development, as defined by the DDA, after the Unavoidable Delay has ceased to exist, the extension of time given to complete Phase I as a result of an Unavoidable Delay shall cease, and upon notice by the City, the Lease shall immediately terminate, and the Tenant shall surrender the property to the City without any Notice of Default or cure periods required.

Section 3. That a new Section 37 shall be added to the Lease, entitled "PARKING EASEMENT GRANT" as follows:

Section 37. PARKING EASEMENT GRANT.

The City grants Tenant the right to use that certain parcel of property owned by the City and shown on Exhibit "A", attached to this Third Amendment and incorporated herein by reference, for the purpose of ingress, egress and parking (the "Additional Parking Area") for the benefit of the Premises, Tenant, Tenant's Subtenants, their guests and invitees, and the public for a period of six (6) years from the effective date of this Third Amendment (the "Parking Easement Term"). Tenant agrees to improve the Additional Parking Area prior to the certificate of occupancy being issued for completion of Phase I. The Additional Parking Area must be improved in a manner reasonably consistent with the existing parking areas for the Premises, including paving, striping, irrigating and landscaping. Tenant agrees to maintain the Additional Parking Area in accordance with the Lease for the duration of the Parking Easement Term. Prior to the end of the Parking Easement Term, Tenant shall procure and obtain alternative additional parking areas for the benefit of the Premises to enable Tenant to provide the necessary accessible parking spaces required by Section 4(d) of the Lease. At the end of the Parking Easement Term, Tenant shall have to provide an additional 26 parking spaces to be compliant with Section 4(d) of the Lease.

Section 4. In all other respects, the remainder of the Lease, as amended by the First Amendment, the Second Amendment and this Third Amendment, shall remain in full force and effect, and the parties agree to perform all duties and obligations as set forth therein. In the event there is a conflict between the Lease, the First Amendment, Second Amendment and this Third Amendment, the provisions of this Third Amendment shall control.

[Signatures appear on the following page(s)]

**THIRD AMENDMENT TO GROUND LEASE – RETAIL
OCEAN MALL**

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

LANDLORD

TENANT

CITY OF RIVIERA BEACH

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

BY: _____
Thomas A. Masters
Mayor

BY: _____
Name: _____
Title: _____

ATTEST:

BY: _____
Carrie E. Ward, MMC
City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
Pamala H. Ryan, B.C.S.
City Attorney

DATE: _____

WITNESSES FOR LANDLORD

WITNESSES FOR TENANT

Print Name: _____

Print Name: _____

Print Name: _____

Print Name: _____

EXHIBIT A

Additional Parking Area

[attached]

Exhibit E

Fourth Amendment To Ground Lease - Retail Ocean Mall (03/2016)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A FOURTH AMENDMENT TO THE OCEAN MALL GROUND LEASE-RETAIL WHICH PROVIDES FOR A SET YEARLY LEASE PAYMENT OF \$63,000, PLACES RESTRICTIONS ON ASSIGNMENTS, PROVIDES FOR A PERMANENT PARKING EASEMENT, AND ESTABLISHES A PARKING REVENUE SYSTEM AT THE OCEAN MALL; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FOURTH AMENDMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about December 18, 2006, the City, as Landlord, entered into a retail ground lease (the “Lease”) for certain premises known as the Ocean Mall (the “Premises”) with OMRD, LLC, a Delaware limited liability company, as Tenant (“OMRD”); and

WHEREAS, the City, OMRD, and the Riviera Beach Community Redevelopment Agency also entered into a Disposition and Development Agreement dated December 18, 2006 (“DDA”) setting out the responsibilities for the development of the Premises in two phases (Phase I and Phase II) and certain surrounding City owned property; and

WHEREAS, on or about April 24, 2013, GSF Florida Retail LLC became the Tenant under the Lease by virtue of being the winning bidder at the foreclosure sale held in the foreclosure action on the lien of the leasehold mortgage originally held by Branch Banking and Trust Company and subsequently assigned to GSF Trust 2011-1; and

WHEREAS, immediately after the foreclosure sale on the leasehold mortgage, the Tenant paid the City \$300,000 to extend the construction completion date of Phase I under the DDA on the Premises to May 31, 2013; and

WHEREAS, on or about May 15, 2013, the parties entered into the First Amendment to Ground Lease – Retail (the “First Amendment”) to facilitate further extension to complete the Phase I construction required of the Tenant by the DDA to May 31, 2014, and further requiring the Tenant to pay an additional \$250,000; and

WHEREAS, on January 15, 2014, the parties entered into a Second Amendment to Ground Lease—Retail which released to the City a portion of the land previously included in the Leased Premises and revised the legal description of the Premises; extended certain deadlines for completion of certain

RESOLUTION NO.: _____

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improvements at the Premises pursuant to the DDA; and provided certain rights to a lender under any leasehold mortgage given by Tenant on the Premises; and

WHEREAS, in March 2014, the parties entered into the Third Amendment which amended Section 4(d) of the Lease by granting to the City all rights to parking revenue; which, in Article 36, extended the Initial Phase I Completion Date to June 30, 2015, with the final extension being June 30, 2016, after payment of \$41,666.66 per month for the twelve (12) month delay; and granted, in a new Article 37, a six (6) year parking easement which allowed Tenant to be in compliance with the parking requirements of the Lease; and

WHEREAS, the parties desire to enter into a Fourth Amendment to the Ground Lease – Retail, to provide for a set annual lease payment of \$63,000; and to place restrictions on assignments; grant a permanent parking easement on the Premises; and establish a parking system on the Premises, said installation to be paid for by Tenant which will generate revenue for 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 Fourth Amendment to Ground Lease –Retail for the Ocean Mall is hereby approved.

SECTION 2. The Mayor and City Clerk are authorized to execute the Fourth Amendment on behalf of the City.

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

PASSED and APPROVED this _____ day of March, 2016.

SIGNATURES ON FOLLOWING PAGE

RESOLUTION NO.: _____

PAGE -3-

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CLAUDENE ROBINSON
CERTIFIED MUNICIPAL CLERK
CITY CLERK

TERENCE D. DAVIS
CHAIR PRO TEM

BRUCE GUYTON
COUNCILPERSON

KASHAMBA MILLER-ANDERSON
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

MOTIONED BY: _____

SECONDED BY: _____

B. GUYTON _____

K. MILLER-ANDERSON _____

C. THOMAS _____

D. PARDO _____

T. DAVIS _____

REVIEWED AS TO LEGAL SUFFICIENCY

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

DATE: _____

**FOURTH AMENDMENT TO GROUND LEASE – RETAIL
OCEAN MALL**

This Fourth Amendment to Ground Lease – Retail (“Fourth Amendment”) is made and entered into this ____ of _____, 2016, by and between the **CITY OF RIVIERA BEACH**, a municipal corporation existing under the laws of the State of Florida (the “Landlord” or “City”), whose mailing address is 600 West Blue Heron Blvd., Riviera Beach, FL 33404, and **GSF FLORIDA RETAIL LLC**, a Delaware limited liability company (the “Tenant”), whose mailing address is 1290 Avenue of the Americas, Suite 914, New York, NY 10104.

WITNESSETH:

WHEREAS, on or about December 18, 2006, the City, as Landlord, entered into a retail ground lease (as amended, the “Lease”) for certain premises known as the Ocean Mall (the “Premises”) with OMRD, LLC, a Delaware limited liability company, as Tenant (“OMRD”); and

WHEREAS, the City, OMRD, and the Riviera Beach Community Redevelopment Agency also entered into a Disposition and Development Agreement dated December 18, 2006 (“DDA”), setting out the responsibilities for the development of the Premises and certain surrounding City owned property; and

WHEREAS, on or about April 24, 2013, GSF Florida Retail LLC became the Tenant under the Lease by virtue of being the winning bidder at the foreclosure sale held in the foreclosure action on the lien of the leasehold mortgage originally held by Branch Banking and Trust Company and subsequently assigned to GSF Trust 2011-1; and

WHEREAS, on or about May 15, 2013, the City and GSF Florida Retail LLC (collectively “the parties”) entered into the First Amendment to Ground Lease – Retail (the “First Amendment”) to facilitate further extension to complete the Phase I construction required of the Tenant by the DDA to May 31, 2014; and

WHEREAS, on or about January 15, 2014, the parties entered into a Second Amendment to Ground Lease – Retail (the “Second Amendment”): (a) to release to the City a portion of the land previously included in the Leased Premises and to revise the legal description of the Premises; (b) to extend certain deadlines for completion of certain improvements at the Premises pursuant to the DDA; and (c) to provide certain rights to a lender under any leasehold mortgage given by Tenant on the Premises; and

WHEREAS, on or about March 19, 2014, the parties entered into a Third Amendment to the Ground Lease – Retail (the “Third Amendment”) which: (a) amended Section 4(d) of the Lease by granting to the City all rights to parking revenue; (b) in Article 36, extended the Initial Phase I Completion Date to June 30, 2015, with the final extension being June 30, 2016, after payment of \$41,666.66 per month for the twelve (12) month delay; and (c) granted, in a new

Article 37, a six (6) year parking easement which allowed Tenant to be in compliance with the parking requirements of the Lease; and

WHEREAS, the parties desire to enter into this Fourth Amendment to the Ground Lease – Retail (the “Fourth Amendment”), to further amend the Lease by providing for a set annual lease payment, by placing restrictions on assignments, by granting a permanent parking easement on the Premises, and by establishing a parking revenue system on the Premises.

NOW, THEREFORE, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration receipt of which is hereby acknowledged, the City and Tenant agree as follows:

Section 1. That Article 2 entitled “RENT” is hereby amended as follows:

Section 2 (a) entitled “Rent” is **DELETED** in its entirety and replaced with a new section 2(a) entitled “Rent.”

2. RENT.

(a) Rent. The Landlord shall receive annual lease payments in the amount of \$63,000.00 payable on a monthly basis on the first day of each month in the amount of \$5,250.00 (“Base Rent”), commencing on April 1, 2016. The Base Rent shall be adjusted each January 1, during the term of the Lease by the annual Percentage Increase in the “Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average-All Items” published by the Bureau of Labor Statistics of the United States Department of Labor. If the index shall cease to be published, there shall be substituted therefore a price index (or combination of indices, which such adjustments as may be required to afford compatibility), published by the Bureau of Labor Statistics or its successor agency, which is intended to be representative of substantially similar changes in the cost of living. “Percentage Increase” shall mean the percentage equal to a fraction, the numerator of which shall be the change in the Index from the third month preceding the Lease Commencement Date to the third month preceding the current anniversary of the Lease Commencement Date. The fraction’s denominator shall be the Index for the third month preceding the Lease Commencement Date. The Base Rent will not be reduced, even in the event of a decline in the CPI-U.

Rent as used in this Lease shall mean Base Rent and any Additional Rent (as hereinafter defined).

Section 2(b) entitled “Net Lease” is amended as follows (underlined is added; ~~stricken through~~ is deleted):

(b) Net Lease. It is the purpose and intent of Landlord and Tenant that the ~~Percentage Base~~ Base Rent herein reserved shall be absolutely net to Landlord so that this Lease shall yield net to Landlord the ~~Percentage Base~~ Base Rent to be

paid during the term of this Lease without any diminution, reduction, deduction, counterclaim, setoff or effect whatsoever, and that all costs and expenses including, but not limited to real estate taxes, special assessments, sales taxes, personal property taxes, licenses and permits, intangible taxes, insurance, utilities, maintenance, repairs and obligations of every kind or nature whatsoever relating to the Leased Premises (including any personal property used in the operation thereof) which may arise or become due during the term of this Lease (collectively, "Additional Rent"), shall be paid by Tenant directly to the parties who are owed such amounts and that Landlord shall be indemnified and saved harmless by Tenant from and against the same. Upon the non-payment of an item of Additional Rent, after expiration of applicable notice and grace periods, Landlord shall have the right and remedies reserved herein for the non-payment of the ~~Percentage~~ Base Rent. Notwithstanding the foregoing, Tenant shall pay the real estate taxes directly to the proper taxing authorities as provided herein, and the real estate taxes shall thereafter no longer be Additional Rent, unless Tenant fails to pay or cause said real estate taxes to be paid before delinquency, and Landlord thereafter pays same, in which event Tenant shall reimburse Landlord, as Additional Rent, for such tax payment.

Section 2(c) entitled "Method and Place of Payment; Late Payment" is amended as follows (underlined is added; ~~stricken through~~ is deleted):

(c) Method and Place of Payment; Late Payment. Until further notice by Landlord to Tenant, ~~Percentage~~ Base Rent checks shall be payable to and mailed to: City of Riviera Beach, 600 W. Blue Heron Boulevard, Riviera Beach, FL 33404, or payable by wire transfer of funds pursuant to wiring instructions provided by Landlord to Tenant upon Tenant's request. Landlord shall, prior to the Effective Date, provide Tenant with a completed IRS Form W-9. Any successor to Landlord shall likewise provide Tenant with such completed IRS Form W-9.

Except as otherwise specifically provided herein, all Rent shall be paid without notice or demand. Rent also may be paid by wire transfer of immediate funds in accordance with instructions as Landlord may provide by notice to Tenant. If Tenant shall fail to make any payment of Rent within fifteen (15) days after the same shall be due, the late payment shall bear interest from the date due until the date paid at a daily rate (the "Late Charge Rate") equal to the lesser of (a) two percent (2%) per annum in excess of the prime rate (the "Prime Rate") in effect from time to time at Citibank, N.A., or the prime rate of any major banking institution doing business in Florida, as selected by Landlord, if such bank is not in existence or has not established a prime rate, and (b) the maximum interest rate permitted by law. All interest payable under this Section shall be deemed ~~Percentage~~ Rent and shall be due and payable by Tenant immediately upon demand.

Section 2. That Article 10 entitled "ASSIGNMENT AND SUBLETTING" subsection (b) is hereby amended as follows (underlined is added; ~~stricken through~~ is deleted):

* * *

(b) If the Tenant sells, assigns or transfers this Lease (collectively, an "Assignment"), to any non-Affiliated Person, then the Tenant must obtain the City's consent and the City agrees that: (i) such consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing and without limitation on other grounds for which the City may reasonably withhold or delay consent, it shall specifically be deemed reasonable by the parties for the City to refuse consent to any sale, assignment or transfer of this Lease on the basis that the assignee, buyer or transferee (either personally or in the case of an entity, either the entity or any of its principals, members or shareholders) has a history of any actually filed litigation in which the assignee, buyer or transferee (either personally or in the case of an entity, either the entity or any of its principals, members or shareholders) has been adverse to the City, and (ii) if the City has not responded to the Tenant's request for such consent within thirty (30) days of receipt of such request (sent by overnight courier company delivery to the City's representative), then such consent shall automatically, immediately and irrevocably be deemed given on the thirty-first (31st) day following the delivery of Tenant's request for such consent.

Section 3. That Article 11 entitled "CASUALTY" subsection (c) is hereby amended as follows (underlined is added; ~~stricken through~~ is deleted):

* * *

(c) No Rent Abatement. Except for Tenant's right to terminate this Lease as provided in Section 11 2 (a) above, this Lease shall not be affected in any manner by reason of a Casualty and Tenant, notwithstanding any law or statute, present or future, waives all rights to quit or surrender the Leased Premises or any part thereof, and Tenant's obligations under this Lease, including the payment of ~~Percentage~~ Base Rent and Additional Rent, shall continue as though none of those events had occurred and without abatement, suspension, or reduction of any kind, except as otherwise expressly provided herein.

Section 4. That Article 13 entitled "HOLDOVER" is hereby amended as follows (underlined is added; ~~stricken through~~ is deleted):

13. HOLDOVER. In the event Tenant shall hold over possession of the Leased Premises after the termination or expiration of this Lease, Tenant shall pay ~~Percentage~~ Base Rent equal to 125% of the ~~Percentage~~ Base Rent in effect at the time of such termination or expiration of the Lease, in lieu of any other or additional charges or damages.

Section 5. That Article 14 entitled "DEFAULT AND REMEDIES" subsections (a)(i) and (b) are hereby amended as follows (underlined is added; ~~stricken through~~ is deleted):

14. DEFAULT AND REMEDIES.

(a) Each of the following events shall be an "Event of Default" hereunder:

(i) if Tenant fails to make any payment of ~~Percentage~~ Rent in full as and when such payment is due, and such failure continues for a period of fifteen (15) days after notice is given by Landlord to Tenant (any notice of Default given by Landlord to Tenant under this Lease being referred to herein as a "Default Notice") that the same is past due; or

* * *

(b) If an Event of Default occurs, Landlord may elect to do any or all of the following: (i) enforce performance or observance by Tenant of the applicable provisions of this Lease; (ii) recover from Tenant Actual Damages (as defined herein below), plus interest thereon at the Late Charge Rate; (iii) be entitled to accelerate and recover an amount equal to the ~~Percentage~~ Rent otherwise becoming due and payable under this Agreement during the one (1) year period after the occurrence of an Event of Default (in which event such accelerated ~~Percentage~~ Rent shall be deemed to constitute additional Actual Damages hereunder); (iv) terminate this Lease pursuant to paragraph (c) below; (v) take, re-enter, and repossess Tenant's interest in the Leased Premises without terminating the Lease and dispossess Tenant; provided, however, that in such event Landlord will use reasonable efforts to mitigate its damages by re-letting the Leased Premises; or (vi) enforce any other remedy at law or in equity. Landlord's election of a remedy hereunder with respect to an Event of Default shall not limit or otherwise affect Landlord's right to elect any of the other remedies available to Landlord hereunder.

"Actual Damages" means an amount equal to the sum of (i) all accrued and unpaid Rent due and owing by Tenant under the Lease, (ii) any Rent due by virtue of acceleration pursuant to this paragraph (b) or any Rent coming due if Tenant is dispossessed but the Lease is not terminated pursuant to this paragraph (b), as applicable; and (iii) any and all costs, fees and expenses incurred by Landlord, whether through direct personnel cost or through engaging third- party consultants, to pursue the rights and remedies of Landlord, as a result of or in connection with an Event of Default under this Lease.

Section 6. That Article 15 entitled "TITLE AND POSSESSION" is hereby amended as follows (underlined is added; ~~stricken through~~ is deleted):

15. TITLE AND POSSESSION.

(a) Fee Title. Landlord covenants, represents and warrants that Landlord has fee simple title to the Leased Premises and, upon the termination of the Existing Lease, the right to make this Lease for the entire Term, that said entire Leased Premises is now and shall be as of the date of Tenant's recording of a Memorandum of Lease, free and clear of all liens, encumbrances and restrictions, except for Permitted Exceptions, and that upon paying the ~~Percentage~~ Rent and keeping the agreements of this Lease on its part to be

kept and performed, Tenant shall have peaceful and uninterrupted possession of the Leased Premises during the continuance of this Lease.

Landlord warrants and represents that, except for any Permitted Exceptions, no encumbrance or restriction affects the Leased Premises which would impair and/or restrict any right granted to Tenant or derived by Tenant under this Lease.

(b) Priority. The estate of Tenant created hereby shall have priority over any lien, encumbrance or other interest now existing or hereafter created or imposed, upon or against Landlord's interest in the Leased Premises.

Section 7. That Article 21 entitled "NOTICES" is hereby amended as follows (underlined is added; ~~stricken through~~ is deleted):

21. NOTICES. All notices hereunder shall be in writing and sent by United States certified or registered mail, postage prepaid, or by overnight delivery service providing proof of receipt, addressed if to Landlord, to the place where ~~Percentage~~ Rent checks are to be mailed, and if to Tenant, to ~~OMRO, Inc., 4300 Catalfumo Way, Palm Beach Gardens, FL 33410, and OMRO Holdings, LLC, 2295 Corporate Blvd., Suite 222, Boca Raton, FL 33431, with a duplicate to Greenberg Traurig, P.A., 5100 Town Center Circle, Suite 400, Boca Raton, FL 33486, Attn: Mare Sinensky, Esq., GSF Florida Retail LLC, c/o Garrison Investment Group, 1290 Avenue of the Americas, Suite 914, New York, New York 10104,~~ provided that each party by like notice may designate any future or different addresses to which subsequent notices shall be sent. Notices shall be deemed given upon receipt or upon refusal to accept delivery. Notice by Landlord hereunder shall simultaneously be delivered to any leasehold mortgagee, trustee or lender of Tenant (of which Landlord has been notified prior to the date of the giving of such notice by Landlord).

Section 8. That Article 37, entitled "PARKING EASEMENT GRANT" (from the 3rd Amendment to Lease) shall be amended as follows (underlined is added; ~~stricken through~~ is deleted).

37. PARKING EASEMENT GRANT.

The City grants Tenant the right to use that certain parcel of property owned by the City and shown on Exhibit "A", attached to this ~~Third~~ Fourth Amendment and incorporated herein by reference, for the purpose of ingress, egress and parking (the "Additional Parking Area") for the benefit of the Leased Premises, Tenant, Tenant's Subtenants, their guests and invitees, and the public for a period of ~~six (6) years from the effective date of this Third Amendment (the "Parking Easement Term").~~ to run concurrently and coterminously with the Term of the Lease. Tenant agrees to improve the existing improved portion of the Additional Parking Area, as shown on Exhibit A, prior to the certificate of occupancy being issued for completion of Phase I. ~~The Additional Parking Area must be improved~~ in a manner reasonably consistent with the existing parking areas for the Leased Premises, including re-paving, re-sealing, re-stripping, numbering spaces, repairing curbing, sidewalk and island areas, replacement of lighting

components and replacement of landscaping elements. Tenant agrees to improve the unimproved portion of the Additional Parking Area also in a manner reasonably consistent with the existing parking areas for the Leased Premises, including paving, striping, numbering spaces, irrigating and landscaping. Tenant agrees to maintain the Additional Parking Area in accordance with the Lease for the duration of the Parking Easement Term. Prior to the end of the Parking Easement Term, Tenant shall procure and obtain alternative additional parking areas for the benefit of the Premises to enable Tenant to provide the necessary accessible parking spaces required by Section 4(d) of the Lease. If GSF remains the Tenant at the end of the Parking Easement Term, it shall have to provide 24 parking spaces to be compliant with Section 4(d) of the Lease. At the end of the Parking Easement Term Tenant shall have to provide an additional 26 parking spaces to be compliant with Section 4(d) of the Lease.

In addition, Tenant agrees to install a parking revenue system in the Additional Parking Area and in the parking areas of the Leased Premises at its sole expense, including all ancillary costs, for the benefit of the City, in the form of a kiosk parking system of a type selected by the Landlord and approved by Tenant, in their reasonable determination. Landlord shall have a period of sixty (60) days from the effective date of this Fourth Amendment to propose and select a reasonable and practical kiosk parking system with the approval of Tenant. Landlord and Tenant shall work together in good faith to select a mutually agreeable kiosk parking system. In the event Landlord is unable to make a selection that is reasonable and acceptable to Tenant within the sixty (60) day period, Tenant shall select and install a kiosk parking system for the Additional Parking Area and the Leased Premises. The kiosk parking system installed shall have no fewer than six (6) and no more than ten (10) kiosks. On completion Tenant shall turn over the control of the kiosk parking system to the City as a "turn-key" operation upon completion of the installation. Tenant agrees to maintain the Additional Parking Area in accordance with the Lease for the duration of the Term, and Landlord agrees to maintain the kiosk system.

The parties agree and confirm that upon the granting of the Additional Parking Area under this Section, the Tenant shall be in compliance with Section 4(d) of the Lease.

Section 9. That a NEW Article 38, entitled "TIMEFRAME TO COMPLETE ADDITIONAL PARKING AREA" shall be added to the Lease as follows:

As for the Additional Parking Area, Tenant shall have until March 1, 2017, to complete the improvements required in Section 37, above. In the event Tenant fails to complete the improvements required in Section 37, Tenant shall be granted additional monthly extensions to complete the improvements to the Additional Parking Area by payment of \$58,333.33 for each month after March, 2017, that Tenant does not complete the improvements required in Section 37, not to exceed 12 months (the "Additional Parking Area Extensions"). The extension fee payments required for each of the Additional Parking Area Extensions shall be paid on the 1st of every month, as needed. In the event the improvements required in Section 37 are not completed, as evidenced by a Certificate of Completion, by March 1, 2018, the Lease shall automatically terminate and the City shall promptly give the Leasehold Mortgagee, if any, notice of such termination, in accordance with Section 25(d). Leasehold Mortgagee, if any, shall have the right to enter into a new lease with the City in accordance with Section 25(d).

Section 10. That a NEW Article 39, entitled “COMPLETION OF PHASE I DEVELOPMENT” shall be added to the Lease, and Article 36 of the Lease shall be revised accordingly, as follows:

Notwithstanding the requirements and definitions set forth in Article 36 (added by the First Amendment and modified by the Second and Third Amendments), for purposes of this Fourth Amendment, the Phase I Development to be completed by Tenant in accordance with the Lease and the DDA shall be deemed to consist of two parts, the first of which is completion of the retail space in the Leased Premises shown on Exhibit A as “Proposed Building B”, and the second of which is the completion of improvements to the Additional Parking Area set forth in Section 37, above. Upon issuance by the City of a Certificate of Completion for Building B, the first part of the Phase I Development shall be complete and the monthly extension payments in the amount of \$41,666.66 shall no longer be required. Completion of the second part of the Phase I Development shall proceed in accordance with Articles 37 and 38, above. Upon completion of the improvements to the Additional Parking Area and issuance by the City of a Certificate of Completion for the second part of the Phase I Development, the Phase I Development shall be complete in its entirety and the Phase I Completion Date shall have occurred, as required by the Lease and the DDA.

Section 11. In all other respects, the remainder of the Lease, as amended by the First, Second, and Third Amendments, shall remain in full force and effect, and the parties agree to perform all duties and obligations as set forth therein. In the event there is a conflict between the Lease, the First, Second, Third and/or Fourth Amendments, the provisions of this Fourth Amendment shall control.

[Signatures appear on the following page(s).]

**FOURTH AMENDMENT TO GROUND LEASE – RETAIL
OCEAN MALL**

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

LANDLORD

TENANT

CITY OF RIVIERA BEACH

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

BY: _____
Thomas A. Masters
Mayor

BY: _____
Name: _____
Title: _____

ATTEST:

BY: _____
Claudene Anthony, CMC
City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Pamala H. Ryan, B.C.S.
City Attorney

DATE: _____

WITNESSES FOR LANDLORD

WITNESSES FOR TENANT

Print Name: _____

Print Name: _____

Print Name: _____

Print Name: _____

Purchasing Initials _____

EXHIBIT A

Additional Parking Area

[attached]

Exhibit F

Walker Parking Consultants - Ocean Mall Parking Access and Revenue Control Strategy (03/2015)



WALKER
PARKING CONSULTANTS

Exhibit F

4904 Eisenhower Boulevard
Suite 150
Tampa, FL 33634

Office: 813.888.5800
Fax: 381.888.5822
www.walkerparking.com

March 10, 2015

Scott Evans
Riviera Beach Community Redevelopment Agency
2001 Broadway, Ste. 300
Riviera Beach, FL 33404

Re: Ocean Mall Parking Access and Revenue Control Strategy

Dear Mr. Evans,

Walker Parking Consultants is pleased to provide you, the Riviera Beach Community Redevelopment Agency and your constituents the Ocean Mall parking access and revenue control strategy recommendations.

Regards,

WALKER PARKING CONSULTANTS

Andrew Vidor
Parking Consultant

AJV:ajv



Ahead of the Curve
in creative parking solutions

Ocean Mall Parking Access and
Revenue Control Strategy

Ocean Mall

Rivera Beach, FL

Prepared for:
Rivera Beach Community
Redevelopment Agency

March 2015



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EXECUTIVE SUMMARY

PARKING DEMAND ANALYSIS

The results of the parking demand analysis indicate the parking demand from the current leasing situation can be accommodated in the Ocean Mall parking lot with 81 available parking spaces available. If building B were constructed and all leasable space occupied, the existing parking supply would be short 23 spaces. The undeveloped land south of the parking lot could potentially be used construct new surface parking.

PARKING ACCESS AND REVENUE CONTROL STRATEGY

The Ocean Mall and beach front parking areas are currently free parking with uncontrolled access. The Rivera Beach Community Redevelopment Agency (CRA) and City are considering implementing paid parking. This report focuses on parking access revenue and control systems as well as pricing strategies should paid parking be implemented.

BEACH FRONT PARKING

The beach front parking is the most desired parking for beach goers. Because of this, we recommend charging a premium for these spaces. Parking fees, along these parking spaces should be collected via multi-space parking meters.

Five multi-space parking meters would be recommended along the beach front parking area. A multi-space parking meter should be budgeted at \$8,500 each; \$42,500 should be budgeted for equipment and installation along the beach front parking area.

OCEAN MALL SERVICE DRIVE PARKING

The parking fronting Ocean Mall should also utilize multi-space parking meters. Some spaces should be reserved for short-term parkers who will not park for an extended period of time. Fifteen minute parking may be acceptable for those spaces. Parking fees, where not signed for short-term parking should be collected via multi-space parking meters.

Four multi-space parking meters would be recommended along the beach front parking area. A multi-space parking meter should be budgeted at \$8,500 each; \$34,000 should be budgeted for equipment and installation along the beach front parking area.

OCEAN MALL PARKING LOT

To control access to the Ocean Mall parking lot, we recommend a gated system, utilizing automated pay-on-foot machines to collect parking fees. In this configuration, the parker would take a ticket in order to enter the lot, and pay the required fee before exiting. The pay-on-foot machines can accept any combination of payment methods including cash, coin, credit card, and validations. If assistance is required by, an intercom system would be used to communicate with staff. An unstaffed gated system obviously does not require staff salaries or



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benefits; however, generally provides less customer satisfaction. During season, attendants could be located in the lot to provide additional customer service. The Community Ambassador or Clean and Safe Ambassadors could be used for the staffing.

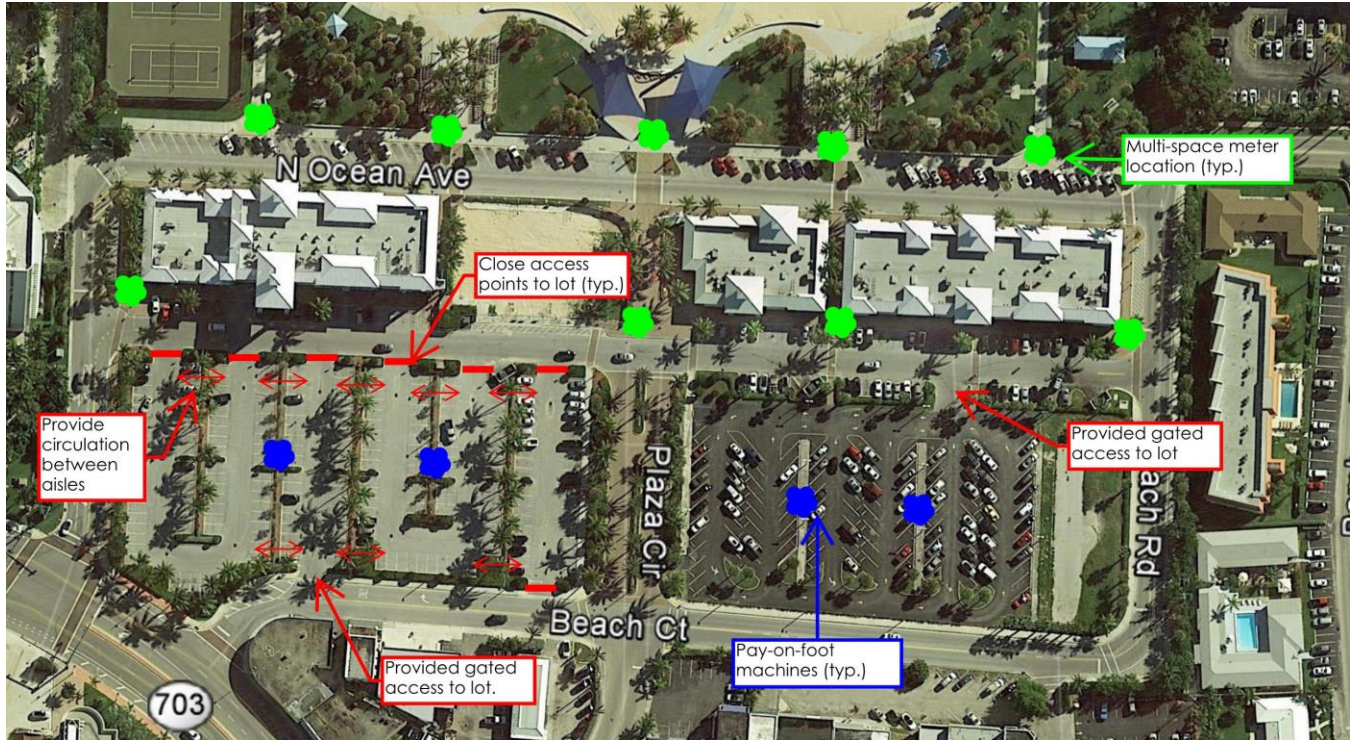
Walker understands that paid parking could potentially discourage patrons from shopping and dining at the Ocean Mall property. Ocean Mall merchants will have the opportunity to offer validated parking to their customers. The validation can be for a specific time period, or for all or a portion of the parking fee and can vary by merchant. The CRA can charge merchants the posted parking rates or a discounted rate.

A gated system typically costs approximately \$25,000 per lane of equipment. For the Ocean Mall parking lot, we recommend reconfiguring the access points to the parking lot so that fewer gates are required. We are assuming two entry and two exit lanes, as well as four POF machines (\$50,000 each). The equipment budget would be approximately \$300,000 installed.

OCEAN MALL WEST SURFACE PARKING LOT

The Ocean Mall West parking lot currently services the tenants in the adjacent buildings along Blue Heron Boulevard. These parking spaces are currently 'free' and unrestricted. There is a plan underway to expand the parking lot to the south. The increased parking supply of this lot is intended to serve as overflow parking for the beach, which is located a quarter of a mile away. Since this location is farther away from Ocean Mall and serves multiple users, we do not recommend restricting access to the parking or charging to park. This serves two purposes; 1) existing tenants and their customers will have continued 'free' and unrestricted access; 2) Beach goers who park farther away from the Ocean Mall lot/beach access spaces have a 'free' and uncontrolled parking option. Another option for this lot is to offer it as an alternative for Rivera Beach residents who do not want to pay for parking. This could eliminate the need for managing a resident permit program.

Figure 1: Ocean Mall Parking Access and Revenue Control Strategy



PROPOSED RIVIERA BEACH PARKING RATES

We recommend instituting a simple but uniform parking rate for Riviera Beach parking. For parkers using the multi-space meters along the beach, we recommend \$2.00 per hour on weekdays and \$2.50 per hour on weekends, with no maximum daily rate. Parkers using the Ocean Mall parking lot would pay \$1.50 per hour during the week and \$1.75 per hour on weekends. As discussed previously, validations would be accepted to reduce the payment burden for businesses that choose to participate in the validation program. Daily maximum rates can be implemented so as not to discourage all day beach parking. Daily rates could be capped at \$10.00 during the week and at \$15.00 during weekends.

PARKING OPERATING STATEMENT

A preliminary parking operating statement was developed under the assumption that the parking areas at Ocean Mall convert to paid parking. The parking operating statement considered the operating expenses as well as the projected revenues for the system. The calendar year net operating income¹ (NOI) is projected to be positive at annually \$699,000.

¹ NOI assumes stabilized revenues and expenses. Stabilization occurs three years after parking fees are implemented.

OCEAN MALL

PARKING ACCESS AND REVENUE CONTROL STRATEGY



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Additional revenues such as violations, premium holiday rates and better performance of the parking utilization will improve the NOI.

EQUIPMENT CAPITAL COST

The parking access and revenue control equipment includes multi-space parking meters for revenue collection along the beachfront and the Ocean Mall Service drive. The Ocean Mall parking lot was identified to be gated; parking would be paid at pay-on-foot machines or by credit card at the exit lanes. The total capital cost to purchase the access and revenue control equipment is \$376,500. The cost does not include the necessary civil work to install the equipment or modify the parking lots to restrict access.



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OCEAN MALL PARKING AREAS

The parking areas in and around Ocean Mall are shown in the following figure. These parking areas are currently free and unrestricted.

Figure 2: Ocean Mall Parking Areas



OCEAN MALL

PARKING ACCESS AND REVENUE CONTROL STRATEGY



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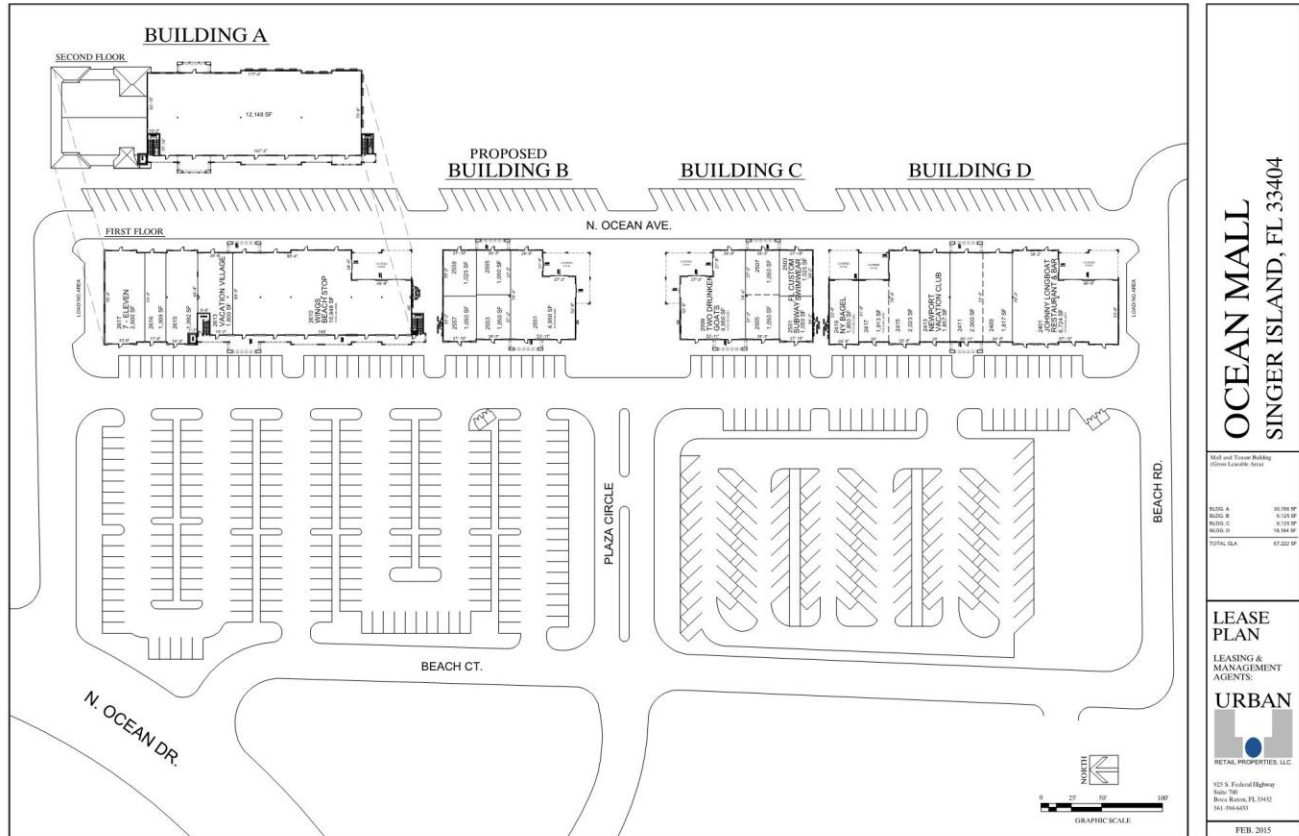
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PARKING DEMAND ANALYSIS

The Ocean Mall development located on Singer Island in Rivera Beach, FL consists of three buildings, A, C & D; building B is proposed and has not been constructed.

Figure 3: Ocean Mall Leasing Plan



Source: Urban Retail Properties, LLC

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The three currently constructed buildings (A, C, D) total 58,106 square feet, of which 49% (32,804 sf) is currently leased. The leasable area consists of retail and restaurant space as shown in the table below.

Table 1: Leasable Area

Building	Leased		Vacant		Total
	Retail	Restaurant	Retail	Restaurant	
A	15,348		15,449		30,797
B			4,175	4,905	9,080
C	1,025	6,000	2,100		9,125
D	1,857	8,574	7,753		18,184
Total	18,230	14,574	29,477	4,905	67,186

The parking lot, service drive and beachside parking immediately to the east and west of Ocean Mall have 430 parking spaces. The parking areas serve Ocean Mall and the beachside.

A parking demand analysis was performed to project the number of vehicles which may be generated once the current leasable space is occupied as well as if building B were constructed. Industry recognized parking demand ratios (shown in the table below) were applied to each land use.

Table 2: Peak Parking Demand Ratios

Land Use	Employee	Visitor
Retail	0.7	2.9
Restaurant	3	17

Demand ratios are shown per 1,000 sf

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The base parking demand shown below represents the weekend daytime during season (prior to captive demand reductions) when all the retail and restaurants are operating at peak capacity.

Table 3: Base Parking Demand

Parker	Current Lease		Fully Leased	
	Retail	Restaurant	Retail	Restaurant
Employee	13	41	33	56
Visitor	53	317	138	317
Subtotal	66	357	172	372
Total	423		544	
Ocean Mall Supply	430		430	
Parking Surplus/(Deficit)	7		(114)	

Much of the retail space in Ocean Mall is oriented towards the beach goer. As such, much of the traffic generated by these stores is captive to the beach parking, as much as 20%. This is referred to as the captive market. The captive market reduces the parking generated by the development. The same concept applies to the restaurants. The resultant parking demand is as shown in the following table.

Table 4: Peak Parking Demand

Demand Reductions	Current Lease		Fully Leased	
	Retail	Restaurant	Retail	Restaurant
Captive Reduction	20%	20%	20%	20%
Visitor Demand Reduction	(11)	(63)	(28)	(63)
Visitor Demand	42	253	111	253
Employee Demand	13	41	33	56
Total	349		453	
Ocean Mall Supply	430		430	
Parking Surplus/(Deficit)	81		(23)	

The results of the parking demand analysis indicate the parking demand from the current leasing situation can be accommodated in the Ocean Mall parking lot with 81 available parking spaces available. If building B were constructed and all leasable space occupied, the existing parking supply would be short 23 spaces. The undeveloped land south of the parking lot could potentially be used construct new surface parking.



The demand generated by beachgoers is highly variable during the year. During the summer months, the demand is less than during the peak season. Parking occupancy counts were conducted in the summer and around 126 vehicles were presumed to be beachgoer vehicles at the Ocean Mall parking lot. The seasonal population of Riviera Beach increases 17%². If this were applied to the presumed beachgoer parking demand, the season parking demand would increase to around 150 vehicles.

² Palm Beach County Profile, 2010 Riviera Beach census indicates 32,488 permanent residents. During season the population is estimated to increase by 5,389 residents.

**PARKING ACCESS AND REVENUE CONTROL SYSTEM STRATEGY**

We have outlined three strategies to control access and collect parking revenue:

1. Ocean Mall parking lot
 - o Charge for parking using a graduated hourly rate.
 - o Utilize either a gated or un-gated multi-space meter system depending on the preference of the CRA and its constituents.
 - o Collect revenue with a hybrid system utilizing automated pay-on-foot stations (POFs) and cashiers. Utilize cashiers and POFs during peak times and eliminate the cashiers to reduce payroll costs during the slower periods (evenings and off-season).
2. Beach parking
 - o Charge for parking on an hourly basis;
 - o Utilize multi-space parking meters to collect parking revenue.
3. Ocean Mall West parking lot
 - o Do not restrict access and do not charge for parking. Utilize this lot as an overflow lot for beach parking once the Ocean Mall parking lot is full.

AUTOMATED EQUIPMENT FOR OCEAN MALL PARKING LOT***AUTOMATED PAYMENT MACHINES (APMS)***

Computers and wireless communication have enabled automated payment machines (APMs) to completely replace cashiers, reducing payroll expenses, streamlining supervision and improving audit control and security. There are two common types of APMs for gated systems: Pay-on-foot and pay-in-lane. Both of these systems eliminate the cashier, reducing payroll costs while allowing for 24/7/365 day coverage. There will still be the need for human intervention when a motorist loses or damages their ticket, is unable or unwilling to pay the required fee, or if the system malfunctions. An intercom system will allow motorists to communicate with staff remotely. Ideally, staff will be close enough to respond in person, but it is also possible to raise the gate remotely if staff is unable to respond in person.

Pay-on-Foot (POF): POF replaces a cashier with an automated payment machine (APM). As the name suggests, the motorist walks up to the POF station prior to returning to their car. The POF station is strategically located so that motorists will be walking past it or near it on their way back to their car. The motorist inserts the ticket they received (upon entering the garage) into the designated ticket inlet. The ticket is read by a fee computer and the fee is calculated. The POF uses visible and audible messaging to advise the motorist of the parking fee. The POF can accept cash and/or credit cards.

- If paying with cash, the motorist inserts bills and or coins into the designated inlet. The POF is capable of calculating and returning change.



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- If paying by credit card, the motorist inserts their credit card into the designated inlet and the POF processes the credit card.

The ticket is validated as paid, and returned to the motorist. A receipt is provided "upon request". The POF uses visible and audible messaging to advise the motorist to insert the validated ticket at the exit verifier at the exit of the garage. An intercom button is available in the event the motorist needs assistance.

The motorist returns to their car, drives to the exit, and inserts the validated ticket into the exit verifier. The exit verifier also uses visible and audible messaging to advise the motorist to insert the validated ticket at the exit verifier. Upon reading the validated ticket the ticket reader sends a signal to automatically raise the exit gate.

The POF system allows for a predetermined grace period (i.e.: twenty minutes) to allow the motorist enough time to return to their car and drive to the exit. If the time expires the motorist will be required to pay additional parking fees. This insures that motorists pay the appropriate fees (they can't intentionally pay for parking a few hours before leaving in an effort to pay a lower fee).

Customers may misjudge the time, forget to validate their ticket, lose their ticket or forget to pay at the POF. The exit verifier can be equipped to accept credit card payments, and will prompt them to do so. This was not available ten years ago but is common today. Note that cash payments cannot be made at the exit with POF. To pay with cash the customer would need to park and return to the POF. An intercom button will be available at the exit to provide assistance.

If a transaction cannot be reconciled through assistance via the intercom, staff is deployed to respond in-person. There are hardware and software options that enable staff to process cash tickets at the garage exit ("Roving Cashier" feature), and/or in the event that staff is not readily available to address the un-reconciled transaction, the gate may also be raised remotely. Note that raising the gate remotely without visually observing the exit lane could result in someone or something being struck by the gate.

Signage will be required to inform customers of the need to keep their parking tickets with them after they park their cars. At the entrances, signage such as "Take Your Ticket with You / Do Not Leave Ticket in Car". Please Pay at the Pay Station before Exiting" are common and can be reinforced with audio messages at the ticket dispensers.

Pay-in-Lane Station (PIL): PIL works the same way as POF, but it is located in the exit lane at the exit of the garage. The motorist drives to the exit as they would when paying a cashier, but the cashier has been replaced by the PIL. The motorist goes through the same payment procedure as described above. Once the motorist has paid the appropriate fee the PIL sends a signal to automatically open the exit gate. An intercom button is available in the event the motorist needs assistance. The PIL can accept cash and/or credit cards.

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While POFs reduce the wait times in the exit lanes by removing all cash transactions and most credit card transactions, PILs process the transaction in the exit lane and by removing the cashier, may or may not reduce the wait times.

- The cashier is more experienced than the motorist at processing the ticket and may process a ticket faster than the motorist does with the PIL.
- The PIL will not conduct a conversation, or give directions, which may expedite the transaction.

PILs can cause delays if there are multiple cars exiting at the same time, as there is a learning curve for first-time users. If the motorist drops the ticket, credit card or cash, s/he will need to get out of the car to retrieve them. Prox card users can be particularly impatient, and/or will tend to utilize an exit that doesn't offer PIL (if it is offered).

PIL machines are typically 15%-20% less expensive than POFs, and PILS don't require separate exit verifiers in the exit lanes (the PIL is the exit verifier).

Figure 1: Pay-on-Foot Machine



Figure 2: Pay-In-Lane Machine



Parking operations that install POF systems experience less exit lane congestion than cashiering or PIL operations. This is due to the processing rate of a POF parker being approximately four times faster than that of cashiered or PIL cash transactions. This benefit is most relative to cashiered operations, so customers may not perceive it as such, since the entrance and exit driveways are currently un-gated; however, in the cashiered or PIL scenario, there would clearly be a difference.

Walker recommends implementing pay-on-foot stations with pay-in-lane machines for redundancy to keep traffic moving in the exit lanes.

VALIDATIONS

Walker understands that paid parking could potentially discourage patrons from shopping and dining at the Ocean Mall property. Ocean Mall merchants will have the opportunity to offer validated parking to their customers. The validation can be for a specific time period, or for all or a portion of the parking fee and can vary by merchant. Ocean Mall can charge merchants the posted parking rates or a discounted rate.

Note that Parking validations can only be used with a gated parking system, as metered parking requires payment in advance (before entering the mall).

There are three standard options for providing validated parking with today's parking equipment: 1) through the use of an offline validation device ("validators"), 2) by issuing "chaser" tickets; or 3) utilizing a web-based validation system.



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Offline validators are compact, desktop/countertop units that are used to encode parking entry tickets with validation information. Tenants who are authorized to validate tickets are issued a validator. They insert an authorized parker's ticket into the validator and the validation code is imprinted on the ticket. When the ticket is inserted at the exit verifier, the ticket is recognized as having been validated and a signal is sent to raise the gate. There is an initial purchase cost of approximately \$1,000 - \$1,500 per off-line validator, depending upon type and quantity; however, they may be more convenient than chaser tickets, as a second ticket doesn't need to be handled.

Chaser tickets are separate tickets that possess the validation information directly on the ticket. Tenants who are authorized to validate tickets are issued the chaser tickets, and they issue them to their authorized parkers. The parker inserts their ticket received upon entering the parking lot into the exit verifier, then the chaser ticket. The chaser ticket is recognized as having been validated and a signal is sent to raise the gate. Chaser tickets can be confusing for parkers and take longer to process at the exit. Typically, for retail and restaurant applications, validators are more practical due to the high volume of chaser tickets that need to be purchased and administered.

Web-based validation systems provide password protected accounts for each tenant authorized to validate parking.

The tenant logs-on to a password protected account, enters the ticket number, selects the validation type and authorizes the validation. Magnetic stripe tickets can also be slid through an encoder, and barcode tickets can be scanned, which is faster than entering a ticket number. Barcode ticket scanners can be stationed for self-service validation for large events. Barcode validations can also be sent via the internet or smart phone. As with the other types, visitors with validated tickets can bypass the central cashier or POF and proceed directly to the exit and insert their ticket (or scan their barcode).

All three types include system software that separates validation accounts so that each validation is uniquely assigned to a particular department or person authorized to provide validations. This allows the different types of validations to be tracked in terms of quantities redeemed and amounts discounted in order to hold departments accountable for the validations they issue. It also provides for statistical analysis and audit control, and if desired, system software can create invoices for billing purposes and can also track payments.

Validations can be programmed for free parking or a discounted parking rate, and can also include time limits.

A common problem that occurs in parking facilities is the abuse of validations. It is not uncommon for employees to validate unauthorized tickets. Validation programs require oversight and auditing to prevent abuse.

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OCEAN MALL PARKING LOT - UN-GATED PARKING SYSTEM

In an un-gated system, parkers arrive and leave with no physical control of the parking lot. Payment is made at a parking meter or via cell phone. Since there are no physical controls, verification of payment (aka enforcement) is required, necessitating additional resources and expenses such as enforcement staff, handheld units for citing unpaid vehicles, a citation processing system, adjudication, etc.

Multi-space meters or single-space 'smart' meters have replaced conventional single space parking meters.

Multi-space parking meters (MSMs) brought three key technologies to un-gated parking: computers, solar power, and wireless communication. This allowed customers to pay by credit card, cities to set complex rate structures, and the meters to communicate wirelessly via a central management system, providing remarkable audit control and maintenance capability, as well as more efficient enforcement. This technology didn't come cheaply, which is why the multi-space concept was created. It wasn't cost effective to put all of this technology into every parking space, but if one meter could cover multiple spaces, they became affordable.

In the past five years, a single-space retrofit meter has become an attractive and affordable option. The computer, solar power and wireless capability have been incorporated into the single-space meter, providing most of the benefits of the multi-space meter, without the customer needing to walk to the multi-space meter.

SSM manufacturers charge credit card transaction fees above and beyond typical merchant processing fees – typically \$0.13 per transaction. This is how they supplement the costs for all the technology in every meter. (MSM manufacturers typically do not charge these fees).

Figure 3: Multi-Space Parking Meters





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If multi-space parking meters are desired, we would recommend providing approximately ten meters which typically cost \$8,500, \$85,000 total.

MULTI-SPACE PARKING METER MODES

PAY-AND-DISPLAY

In pay and display mode, patrons park the vehicle, walk to the parking meter, pay a variable fee for a certain amount of time and receive a receipt. Somewhat less convenient for the patron than individual meters, in pay and display mode, the patron has to return to their vehicle to place the receipt on the dashboard. The receipt indicates the duration, location, machine number and end time for which the vehicle has paid for parking. Enforcement is done by visually inspecting the expiration time on the receipt on each car.

PAY-BY-SPACE

In pay-by-space mode, the patron is not required to return to the vehicle with a receipt, so fewer meters may be deployed. Each parking space is numbered. Patrons approach the parking meter, enter the parking space number in which their vehicle is parked, and select the amount of time desired. No receipt is needed for enforcement, but there can be a receipt for proof of transaction. Enforcement is done by viewing a web-based report of paid and/or unpaid spaces on a hand-held enforcement device, smart phone, or from any web-enabled computer.

PAY-BY-PLATE

In pay-by-plate mode, the patron is not required to remember their parking space or return to their vehicle with a receipt. Instead, they enter their vehicle's license plate information, and select the amount of parking time. No receipt is required for enforcement, but there can be a receipt for proof of transaction. This system allows a patron to move their vehicle to another spot within the same meter zone without having to pay for parking again, provided there was time still remaining on the original purchase, and they were not in violation of the posted time restrictions. Many applications also allow patrons to add parking time to the meter from another meter or by their cell phone for added convenience. Enforcement is done with a vehicle mounted (mobile) License Plate Recognition (LPR) system that scans the license plates of all parked cars.

Most cities consider implementing pay-by-cell phone services (PbC) when they implement smart meters. IPS does not provide PbC phone parking; however, they integrate with PbC vendors to provide this service in conjunction with parking meters. Here's how pay-by-cell phone works with IPS meters:

1. The pay-by-cell vendor sets up an account with the CRA, identifying all parking spaces and/or zones.



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2. Motorists register their cellphones and provide credit card payment information for the pay-by-cell vendor via their cell phone.
3. Upon parking, the motorist calls the pay-by-cell vendor's automated payment line. The motorist enters the appropriate location code for the CRA and the meter number, and selects the desired parking time to purchase. The time limits are similar to the meter (parkers are unable to extend time beyond the legal time limits).
4. The pay-by-cell vendor charges the motorist a convenience fee, typically 35 cents per transaction.
5. The PbC software will send a text message to the motorist before the meter time expires, offering the motorist the option of purchasing more time; however, only up to the posted time limit. A two-hour time limit doesn't allow a lot of opportunity for extending the parking session, but it's nice to be notified when the meter will expire. There is also an option to allow the motorist to stop the parking session when they return to their vehicle, allowing them to pay only for the actual time parked; however, this option can be seen as costing the city revenue.
6. Enforcement is typically done by viewing the vendor's list of paid transactions (by meter number) on a web-based handheld device or smart phone; however, IPS offers the option of 'pushing' the PbC payment to the parking meter (so that the time is displayed on the meter) for \$0.10 per transaction. This enables enforcement staff (and other motorists) to see the PbC payment on the parking meter. Unfortunately, pushing PbC to the meter severely reduces the life of the meter battery. Walker did not recommend installing sensors previously, and would not recommend sensors for pushing time to the meter, due to the negative impact on the meter battery.
7. The pay-by-cell vendor deposits the parking fees into the CRA's established bank account, keeping the convenience fees.

OCEAN MALL PARKING LOT - GATED PARKING SYSTEM

UNSTAFFED LOT

Walker recommends automated pay-on-foot stations for unstaffed gated parking. The Rivera Beach Community Redevelopment Agency will save significant payroll costs, while having the ability to collect parking fees 24/7/365 if desired. If assistance was required by a parker, an intercom system would be used to communicate with staff or Ambassador.

With an unstaffed gated system, residents (if a resident permit program is implemented) and Ocean Mall employees can bypass the daily ticket transactions by registering as monthly parkers.

Monthly parkers (monthlies) are authorized to have regular access to the parking facility without needing to pull a ticket at the entrance or to process a ticket in order to exit. Tenants and employees are candidates for monthly parking. Monthlies will be issued credentials that will be used for garage access and egress, (to raise the entrance and exit gates). The term



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'monthly' comes from the method of assessing parking fees. Rather than charging tenants and employees the posted hourly parking fees, a monthly fee is established and paid on a monthly basis. If desired, system software can create invoices for billing purposes and also track payments.

The resident/tenant/employee receives a credential such as a pass card or a transponder that is used to enter and exit the parking facility. The credential can be programmed for unlimited access or time-restricted access such as weekdays or weekends only, or during particular time periods such as days or nights.

The credential can also be programmed to protect against misuse by insisting on an "in-out-in-out" pattern of use. The theory is that if a pattern of "in-in" or "out-out" was allowed, the user could be allowing other cars to enter or exit the facility. This programming feature is referred to as "anti-passback" and can be set as "hard" (the pass will not work if the pattern is broken) or "soft" (the card will work but an exception is noted in the software system).

Other features include combining a number of pass cards into one group and limiting the number of cars that are allowed to be in the facility at any given time. This feature allows for compromises such as a lease restriction of ten parking spaces for a tenant with twenty part-time employees who work various shifts. Each employee can be issued a credential with the understanding that only ten of them will be allowed to be in the garage at any given time. Once ten cards are in "in" status, the system will not allow another credential to access the entry gate until one of the ten cars exits the garage.

Proximity cards are the most common type of monthly credential. The parker drives to the gate, rolls down their car window, and waves the proximity ("prox") card within a few inches of a proximity reader. The reader confirms the validity of the card, and if valid, sends a signal to open the gate(s).

An Automatic Vehicle Identification (AVI) system may be used in place of a proximity card system. AVI tags or transponders are issued and attached on or placed in the vehicle in place of proximity cards. This allows monthlies to enter and exit without needing to wave a pass card or even roll down their window.

The AVI system is more expensive to purchase and install than a proximity card system, and the AVI tags and transponders are twice as expensive as proximity cards. In addition, parkers who use multiple vehicles, such as a spouse's vehicle, may require multiple tags or transponders to be issued. On the other hand, proximity cards are more likely to be lost misplaced, and/or handed off to other people, as they are not affixed to the vehicle.

Managing monthly parking will require additional staff to oversee the administration of such a program; however, gated parking access and revenue control systems that offer or automated parking systems include monthly parking as part of the system.

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STAFFED LOT

For a staffed gated system, a cashier booth would be located at the vehicle exit of the Ocean Mall parking lot. A cashier would conduct transactions and collect payments via a fee computer.

If a hybrid system is implemented (including pay-on-foot stations and a cashier booth/fee computer), the cashier it would not have to be utilized at all times. In this scenario, the cashier could be utilized on an 'as-needed' basis, for example, during the busiest parts of the day during peak season. During these times, the Clean and Safe Ambassadors team (intended to be implemented by the CRA), could be utilized to staff the parking booth and collect revenue. The Cities Community Ambassadors could also be utilized for this staffing position.

A gated system typically costs approximately \$25,000 per lane of equipment. For the Ocean Mall parking lot, we recommend reconfiguring the access points to the parking lot so that fewer gates are required. We are assuming two entry and two exit lanes, as well as four POF machines (\$50,000 each). The equipment budget would be approximately \$300,000 installed.

PARKING MANAGEMENT

Several management strategies/policies should be considered or implemented for the Ocean Mall if paid parking is implemented.

- Employees should be encouraged to park farthest away from the businesses and beach. The intent is to provide the closest parking for customers and beach goers. Because the parking is proposed to be paid, employees could utilize the Ocean Mall West parking lot for free, otherwise employees would pay the posted rates.
- A number of short-term, fifteen minute parking spaces should be provided along the Ocean Mall Service Drive parking. The parking should signed indicating it is short term. The parking would be intended to be utilized by patrons making quick stops, such as 7-11.
- A marketing program should be established to describe the transition from free parking to paid parking. The program should describe the parking rates, hours when parking is paid, permit programs, and alternatives to paying for parking such as the Ocean Mall parking lot. The marketing campaign should also focus on the reasons why the beach at Ocean Mall is preferred to other beaches in the area.
- The decision wither to encourage all day beach parkers to utilize the lots further from the beach is a financial one. If all day beach parking is discouraged close to the beach or at Ocean Mall, the hourly rate or hourly rate after 4 hours should be increased; thus making it more cost effective to park further away.



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RECOMMENDED PARKING ACCESS AND REVENUE CONTROL STRATEGY

BEACH FRONT PARKING

The beach front parking area is the most desired parking for beach goers. Because of this, we recommend charging a premium for these spaces. Walker recommends installing multi-space meters to control these spaces.

Five multi-space parking meters would be installed along the beach front parking area. Multi-space meters cost approximately \$8,500 each installed; therefore, \$42,500 should be budgeted for equipment and installation along the beach front parking area.

OCEAN MALL SERVICE DRIVE PARKING

The parking fronting Ocean Mall should also utilize multi-space parking meters. Some spaces should be reserved for short-term parkers who will not park for an extended period of time. Fifteen minute parking may be acceptable for those spaces. Parking fees, where not signed for short-term parking should be collected via multi-space parking meters.

Four multi-space parking meters would be recommended along the beach front parking area. A multi-space parking meter should be budgeted at \$8,500 each; \$34,000 should be budgeted for equipment and installation along the beach front parking area.

OCEAN MALL PARKING LOT

To control access to the Ocean Mall parking lot, we recommend a gated system, utilizing automated pay-on-foot machines to collect parking fees. In this configuration, the parker would take a ticket in order to enter the lot, and pay the required fee before exiting. The pay-on-foot machines can accept any combination of payment methods including cash, coin, credit card, and validations. If assistance is required by, an intercom system would be used to communicate with staff. An unstaffed gated system obviously does not require staff salaries or benefits; however, generally provides less customer satisfaction. During season, attendants could be located in the lot to provide additional customer service. The Community Ambassador or Clean and Safe Ambassadors could be used for the staffing.

Walker understands that paid parking could potentially discourage patrons from shopping and dining at the Ocean Mall property. Ocean Mall merchants will have the opportunity to offer validated parking to their customers. The validation can be for a specific time period, or for all or a portion of the parking fee and can vary by merchant. The CRA can charge merchants the posted parking rates or a discounted rate.

A gated system typically costs approximately \$25,000 per lane of equipment. For the Ocean Mall parking lot, we recommend reconfiguring the access points to the parking lot so that fewer gates are required. We are assuming two entry and two exit lanes, as well as four POF machines (\$50,000 each). The equipment budget would be approximately \$300,000 installed.

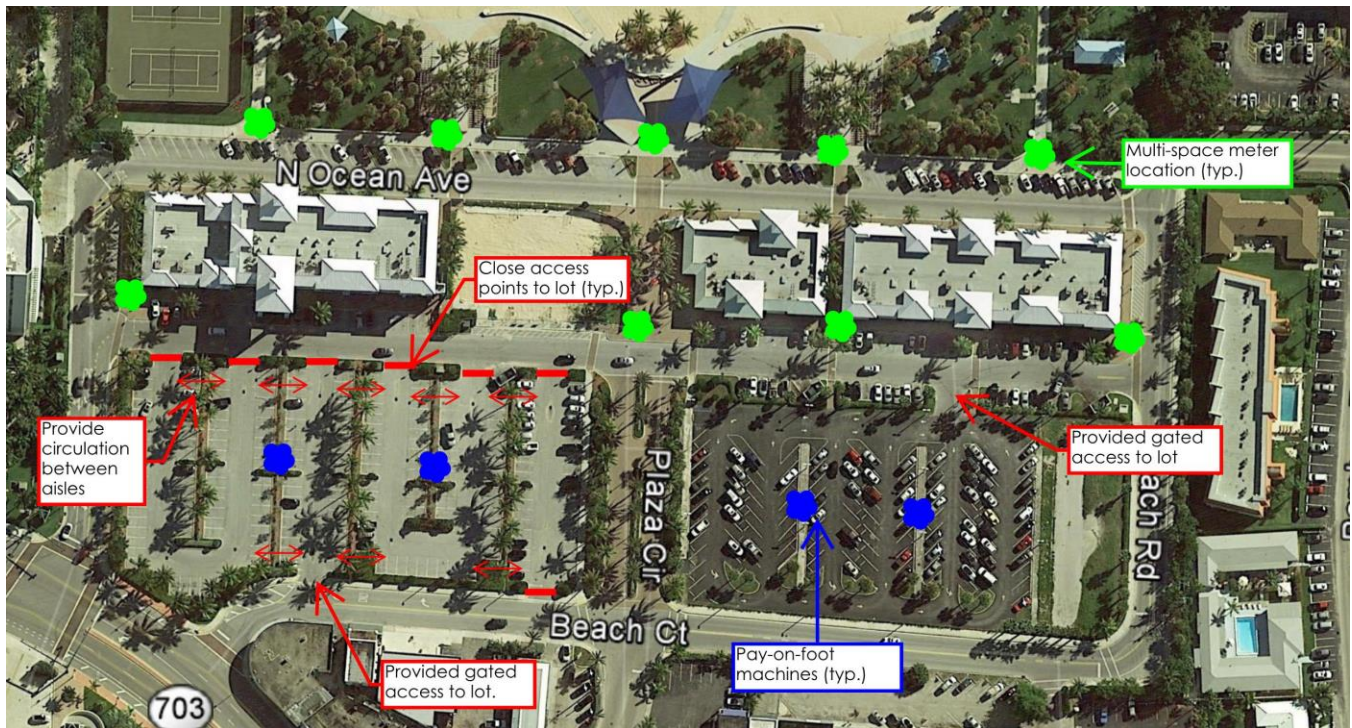
OCEAN MALL WEST SURFACE PARKING LOT

The Ocean Mall West parking lot currently services the tenants in the adjacent buildings along Blue Heron Boulevard. These parking spaces are currently 'free' and unrestricted. There is a plan underway to expand the parking lot to the south. The increased parking supply of this lot is intended to serve as overflow parking for the beach, which is located a quarter of a mile away. Since this location is farther away from Ocean Mall and serves multiple users, we do not recommend restricting access to the parking or charging to park. This serves two purposes; 1) existing tenants and their customers will have continued 'free' and unrestricted access; 2) Beach goers who park farther away from the Ocean Mall lot/beach access spaces have a 'free' and uncontrolled parking option.

This lot would also be intended to be used for permitted residents, seasonal residents and non-resident permit parkers.

A proposed layout of the paid parking system is shown in the figure below.

Figure 4: Ocean Mall Parking Access and Revenue Control Strategy



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PARKING RATE STRATEGY

We understand introducing paid parking at Ocean Mall and Rivera Beach is being considered for the following reasons:

- Generate parking revenue,
- Discourage parkers who don't belong in a particular location (e.g., staff of surrounding businesses not associated with Ocean Mall),
- Fund existing and future parking maintenance and operations.

The parking rate strategy recommendation is as follows regardless of the actual rates that are selected by the CRA, City and its constituents.

- Parking at the Rivera Beach parking spaces should have the highest hourly parking rate to encourage vehicle turnover. Additionally, a steep incremental hourly rate should be set to discourage all-day parking
- All-day parking rates should be implemented for beach goers at the Ocean Mall parking lot, so as not to discourage visitors from enjoying the beach. Rates should be set to compete with peer beach communities. . Hourly parking rates should be set so as not to discourage short term parkers from shopping or dining at the Ocean Mall. Validations can be used to offset some or all of the parking fees.
- Parking fees at the Ocean Mall West parking lot (if paid parking is implemented) should be set considerably lower than the Ocean Mall parking lot. This location is ideal to provide an alternative to paid parking as it is further from both the beach and Ocean Mall.
- Parking rates should be set so that at a minimum, parking revenue sustains all expenses required to implement and operate the parking system. The rate strategy is explained in more detail in the preliminary market/financial analysis of the report.

PEER BEACH COMMUNITY PARKING RATES

In order to assist in identifying a parking rate structure, the CRA provided a listing of peer beach communities. The listing of the beach parking rates for those communities is shown below.

Figure 4: Peer Beach Communities Parking Rates

Beach Community	Weekday Rates	Weekend Rates	Annual Permits
Boca Raton	\$16/day	\$18/day	\$55 Residents
County Front	Free	Free	N/A
Deerfield Beach	\$3/hr	\$4/hr	\$100 Residents
Delray Beach	\$1.50/hr	\$1.50/hr	\$95.40
Hollywood	\$1.50/hr	\$2/hr	\$159 Residents; \$318 Non Residents
Juno Beach	Free	Free	N/A
Jupiter Beach	Free	Free	N/A
Lake Worth	\$2/hr	\$2/hr	\$40 Residents; \$60 Seasonal Residents
Ocean Reef	Free	Free	N/A
Palm Beach	\$5/hr	\$5/hr	\$840 Phipps Ocean Park only
Palm Beach Shores	Permit Only	Permit Only	\$10 Residents; \$100 Non Residents

The average weekday parking rate for the peer beach communities is \$2.60 per hour and the 85 percentile rate is \$3.80 per hour. The average weekend parking rate is \$2.90 per hour and the 85 percentile rate is \$4.00 per hour. Note: Boca Raton parking rates are excluded from the rate analysis because they are outliers.

PROPOSED RIVIERA BEACH PARKING RATES

We recommend instituting a simple but uniform parking rate for Riviera Beach parking. For parkers using the multi-space meters along the beach, we recommend \$2.00 per hour on weekdays and \$2.50 per hour on weekends, with no maximum daily rate. Parkers using the Ocean Mall parking lot would pay \$1.50 per hour during the week and \$1.75 per hour on weekends. As discussed previously, validations would be accepted to reduce the payment burden for businesses that choose to participate in the validation program. Daily maximum rates can be implemented so as not to discourage all day beach parking. Daily rates could be capped at \$10.00 during the week and at \$15.00 during weekends.

PRELIMINARY OPERATING STATEMENT

A preliminary operating statement for the parking areas at Ocean Mall was developed for the for the purposes of understanding the financial impacts of parking moving from free to paid. This analysis is subject to the following limiting conditions:

1. This pro forma is not intended to be used for financing. The assumptions used for the financial model are very preliminary in nature.
2. This report is to be used in whole and not in part. None of the contents of this report may be reproduced or disseminated in any form other than in its completeness and should be used in conjunction with Walker Parking Consultants, Ocean Mall Parking Access and Revenue Control Strategy Report dated August 2014.
3. Estimates and projections provided by Walker have been premised in part upon assumptions provided and discussed with the Riviera Beach Community Redevelopment Agency. In some cases, Walker has not independently investigated the accuracy of the assumptions provided by the client, its agents, representatives, or others supplying information or data to Walker for its use in preparation of this report.
4. This analysis utilizes data previously obtained or recommendations from Walker Parking Consultants, Ocean Mall Parking Access and Revenue Control Strategy Report dated August 2014.
5. Walker has drawn certain assumptions from its past work on other projects of similar or like nature, and has done so in a manner consistent with the standard of care within the profession. Because of the inherent uncertainty and probable variation of the assumptions, actual results will vary from estimated or projected results.

STAFFING OPERATING ASSUMPTIONS

Several assumptions are used for the project based on our understanding of the development at the time of analysis.

- Parking revenues begin fiscal year (October) 2016. Stabilization occurs three years after implementation.
- Revenue will be collected on the weekdays between 10 AM and 9 PM, and 9 AM until 10 PM on the weekends.
- Parking revenue will be collected on the Beachside and at the Ocean Mall service drive with multi-space parking meters. The Ocean Mall parking lot will be gated with revenue collection using pay-on-foot stations. Payment not made at the pay-on-foot stations will be via credit card at the exit. The parking lots will not have a cashier; rather assistance will be provided by Ambassadors working on-site during the hours payment is required.
- A parking manager will dedicate four hours a day Monday through Friday.
- A custodian will be on-site for cleaning seven days a week for two hours a day.
- Parking revenues are assumed to be stabilized.
- Enforcement expenses/staffing is excluded.



- One Ambassador staffing position is included which will be dedicated to the parking areas full time. The ambassador could either be from the CRA's Clean and Safe Ambassador program or the Cities Community Ambassador program. Additional Ambassadors working on the parking areas are assumed to be paid under a separate budget. Daily working hours are from 8 AM – 9 PM.
- One full time parking manager working normal weekday business hours (40 hours a week) is included.
- One part time custodian (5 hours a day) is assigned to the parking areas. Duties include general cleaning as well as basic care of the parking meters such as refilling tickets, receipt paper and emptying cash vaults.

REVENUE ASSUMPTIONS

- Revenue collected at Beach Front Parking - Beachside, Ocean Mall - Service Drive, Ocean Mall Parking Lot. Free parking is available at Beach Court – Service Road and Ocean Mall West Parking Lot.
- Parking rates are as follows:

Parking Area	Season		Off-Season	
	Weekday	Weekend	Weekday	Weekend
Beachside	\$2	\$2	\$2	\$2
Ocean Mall Service Road	\$2	\$2	\$2	\$2
Ocean Mall Parking Lot	\$1	\$2	\$1	\$2

- Average parking lot utilization is as follows:

Parking Area	Season	Off-Season
Beachside	70%	40%
Ocean Mall Service Road	70%	40%
Ocean Mall Parking Lot	60%	40%

- Peak parking revenues are calculated during the following hours:

Peak Revenue Periods	Hours
Weekday Daytime (10 AM - 3 PM)	5
Weekday Evening (7 PM - 9 PM)	2
Weekend Daytime (9 AM - 5 PM)	8
Weekend Evening (5 PM - 9 PM)	4

- Parking revenues are assumed to be paid during the following calendar days:

Calendar Days	Weekdays	Weekend
Season (December - March)	89	32
Off-Season (April - December)	180	64

- 700 resident permits sold per year @ \$40 each.
- 70 seasonal resident permits sold per year at \$60 each.

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- 100 non-resident permits sold per year @ \$100 each.³
- Free 15 minute parking along Ocean Mall Service Drive is provided for short-term parkers.
- Parking violation revenue excluded.
- Parking revenues outside the hours listed above will occur; however, have been excluded from the analysis.
- Revenue from accessible parking spaces are excluded from revenue projection. 6 spaces at Beachfront, 8 spaces @ Ocean Mall Service Drive, 3 spaces in Ocean Mall south parking lot.
- Restaurant mix at Ocean Mall is assumed to continue.

YEARLY REVENUES

The yearly revenue for the three parking areas as well as other income are projected using the assumptions noted above. The yearly revenues are projected at \$1,027,200. The breakdown in revenue is as follows:

Figure 5: Yearly Revenue

Beachside	\$172,000
Ocean Mall Service Drive	\$155,000
Ocean Mall	\$628,000
Resident Permits (\$40 each)	\$28,000
Seasonal Resident Permits (\$60 each)	\$4,200
Non Resident Permits (\$100 each)	\$10,000
Ground Lease Revenue	\$30,000
Total Net Revenue	\$1,027,200

³ Permitted vehicles will park in the Ocean Mall West parking lot. Parking beachside, Ocean Mall – Service Drive or Ocean Mall Parking Lot requires payment at the posted rates.

The breakdown on parking revenue is shown in the table below.

Figure 6: Transient Parking Revenue

Parking Area	Season			
	Weekday		Weekend	
	Daytime	Evening	Daytime	Evening
Beachside	\$36,000	\$14,000	\$20,000	\$10,000
Ocean Mall Service Road	\$32,000	\$13,000	\$18,000	\$9,000
Ocean Mall Parking Lot	\$86,000	\$34,000	\$99,000	\$49,000
	\$154,000	\$61,000	\$137,000	\$68,000

Parking Area	Off-Season			
	Weekday		Weekend	
	Daytime	Evening	Daytime	Evening
Beachside	\$41,000	\$16,000	\$ 23,000	\$ 12,000
Ocean Mall Service Road	\$37,000	\$15,000	\$ 21,000	\$ 10,000
Ocean Mall Parking Lot	\$116,000	\$46,000	\$ 132,000	\$ 66,000
	\$194,000	\$77,000	\$176,000	\$88,000

Yearly Transient Parking Revenue	\$955,000
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OPERATING EXPENSE ASSUMPTIONS

Operating expense assumptions are based on Walkers data base of operating expenses on an annual per-space basis, adjusted to account for a mix of surface parking spaces as detailed below.

- Management fee is calculated at \$55 per space. This assumes the owner retains a private operator through a competitive RFP process;
- Wage expense covers 4.51 FTE's to cover part-time staffing by Ambassadors;
- Benefits are based on 40% of the wage costs;
- Accounting, banking and credit card fees are calculated at \$45 per space;
- Materials and supplies are calculated at \$10 per space to cover tickets, receipts, and other supplies;
- Utilities are calculated at \$20 per space to cover electricity;
- Liability Insurance and Claims are calculated at 18% of wage expense;
- Maintenance is calculated at \$30 per space for routine and basic maintenance only;
- Miscellaneous expenses are calculated at \$10 per space.
- Property taxes and capital expenses excluded;
- Maintenance and Repair fund before NOI included at \$20 per space; and
- Figures rounded to the nearest thousand.

YEARLY OPERATING EXPENSES

The yearly operating expenses for the parking areas which revenue will be collected is show in the table below. The yearly operating expenses are projected at \$319,000. The three parking areas which revenues will be collected totals, 430 parking spaces.

Figure 7: Operating Expenses

Management Fee	\$55 /Space	\$24,000
Wages	per labor calc	\$137,000
Employee Benefits	per labor calc	\$55,000
Accounting/Banking/CC	\$45 /Space	\$19,000
Materials & Supplies	\$10 /Space	\$4,000
Utilities	\$20 /Space	\$9,000
Insurance and Claims	18% /Wages	\$25,000
Maintenance	\$30 /Space	\$13,000
Miscellaneous/Other	\$10 /Space	\$4,000
Administration, Finance, CRA	10% subtotal	\$29,000
Total Operating Expenses		\$319,000

YEARLY OPERATING INCOME

An additional \$8,700 is recommended as a maintenance reserve for repairs. Even with the reserve, the net operating income is projected to be positive. Additional revenues such as violations, premium holiday rates and better performance of the parking utilization will improve the NOI. The calendar year net operating income⁴ (NOI) is projected to be positive at annually \$699,000. A summary of the revenues, expenses and NOI are shown in the table below.

Figure 8: Net Operating Income

Revenue	\$1,027,200
Expenses	\$319,000
Operating Income (loss)	\$708,000
Maintenance Reserve Fund	(\$9,000)
Net Operating Income (loss)	\$699,000

⁴ NOI assumes stabilized revenues and expenses. Stabilization occurs three years after parking fees are implemented.



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EQUIPMENT CAPITAL COST

The parking access and revenue control equipment includes multi-space parking meters for revenue collection along the beachfront and the Ocean Mall Service drive. The Ocean Mall parking lot was identified to be gated; parking would be paid at pay-on-foot machines or by credit card at the exit lanes. The table below identifies the initial capital cost for the equipment purchase.

Figure 9: Equipment Capital Cost

Type of Equipment	Units	Unit Cost	Extension
Multi-space parking meters	9	\$ 8,500	\$ 76,500
Pay-on-foot machines	4	\$ 50,000	\$ 200,000
Gated lanes	4	\$ 25,000	\$ 100,000
Total			\$ 376,500



WALKER
PARKING CONSULTANTS

Exhibit G

Ocean Mall Rental Revenue Projections and Summary Operating Budgets

Ocean Mall

Riviera Beach, FL

Rental Revenue Projections

Exhibit G

Unit Number	Tenant	GLA	Rental Rate	Annual Gross Rent
<i>Building "A"</i>				
#2619	7-11	2,536	\$24.87	\$63,070.32
#2616	Available	1,309	\$24.87	32,554.83
#2615	Available	1,992	\$24.87	49,541.04
#2613	Vacation Village Resorts	1,800	\$24.87	44,766.00
#2601-5	Wings Beachwear	10,948	\$24.87	272,276.76
Second Floor	Available	12,148	\$24.87	302,120.76
<i>Building "B"</i>				
#2551 - 1st Floor	Available	7,336	\$24.87	182,446.32
#2551 - 2nd Floor	Available	4,864	\$24.87	120,967.68
#2550	Available	1,769	\$24.87	43,995.03
<i>Building "C"</i>				
#2509	Two Drunken Goats	4,950	\$24.87	123,106.50
#2507	Available	1,050	\$24.87	26,113.50
#2505	Available	1,050	\$24.87	26,113.50
#2503	Sweet Treats Ice Cream	1,025	\$24.87	25,491.75
#2501	Subway	1,050	\$24.87	26,113.50
<i>Building "D"</i>				
#2419	NY Bagels Café & Deli	1,850	\$24.87	46,009.50
#2417	Under LOI	3,936	\$24.87	97,888.32
#2413	Under LOI	1,857	\$24.87	46,183.59
#2411	Da Big Kahuna	3,817	\$24.87	94,928.79
#2401	Johnny Longboats	6,742	\$24.87	167,673.54
Total GLA		72,029		\$1,791,361.23
Occupancy Rate ==>			48%	

