

**RESOLUTION NO. 2009-30**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COMMUNITY REDEVELOPMENT AGENCY (THE AGENCY) APPROVING AN INTERLOCAL AGREEMENT TO BORROW A SUM NOT TO EXCEED \$10.4 MILLION FROM THE CITY OF RIVIERA BEACH FOR THE CONSTRUCTION OF INFRASTRUCTURE, PARK AND BEACH IMPROVEMENTS AT THE OCEAN MALL AND ESTABLISHING A REPAYMENT SCHEDULE AND INTEREST RATE AND PROVIDING AN EFFECTIVE DATE**

\* \* \* \* \*

**WHEREAS**, the City of Riviera Beach (City), the Riviera Beach Community Redevelopment Agency (CRA) and Ocean Mall Redevelopment (OMRD) entered into an agreement to redevelop the Ocean Mall property; and

**WHEREAS**, the agreement provided that OMRD shall be paid upon completion of certain improvements agreed to in the agreement between the City, the CRA and OMRD; and

**WHEREAS**, the completion for those improvements to the Ocean Mall property are scheduled for completion this fiscal year; and

**WHEREAS**, The CRA shall enter into an Interlocal agreement with the City, that stipulates that the City will pay OMRD for actual costs of the construction of the previously agreed improvements as completed in stages and authorized by the City's authorized inspection in an amount not to exceed \$10.4 Million; and

**WHEREAS**, the CRA will repay the City for the payment of actual construction costs to OMRD, at an interest rate of 4.75% over 15 years.

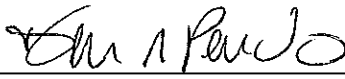
**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:**

**SECTION 1** The Board of Commissioners hereby authorizes the Community Redevelopment Agency to enter into an Interlocal Loan Agreement (attached as Exhibit A) with the City of Riviera Beach which authorizes a loan to the CRA in an amount not to exceed \$10.4 Million to be repaid over 15 years at a rate of \$985,100 or until the loan is repaid.

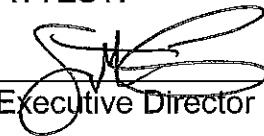
**SECTION 2:** This resolution shall be effective immediately upon its adoption

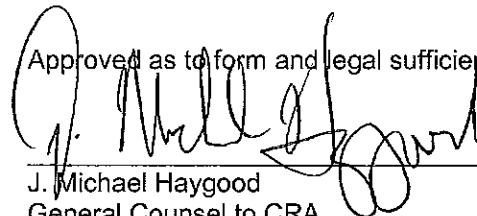
**PASSED AND ADOPTED** this 26 day of October, 2009.

RIVIERA BEACH COMMUNITY  
REDEVELOPMENT AGENCY

By:   
Dawn S. Pardo  
Chairperson

ATTEST:

  
Executive Director

Approved as to form and legal sufficiency  
  
J. Michael Haygood  
General Counsel to CRA

Date: 10/26/09

MOTION BY: J. DAVIS  
SECONDED BY: B. Brooks

D. PARDO	<u>AYE</u>
J. DAVIS	<u>AYE</u>
B. BROOKS	<u>AYE</u>
T. DAVIS-JOHNSON	<u>AYE</u>
S. LOWE	<u>ABSENT</u>

**LOAN AGREEMENT**

**BETWEEN THE CITY OF RIVIERA BEACH, AS LENDER  
and  
THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY, AS  
BORROWER**

**THIS LOAN AGREEMENT** made and entered into this 21 day of October, 2009, by and between the **CITY OF RIVIERA BEACH**, a duly created municipal corporation and the **RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic of the State of Florida.

**WITNESSETH**

**WHEREAS**, the City Council (the "Council") of the City of Riviera Beach, Florida (the "City"), by the adoption of ordinances, resolutions or motions (i) has found one or more slum or blighted areas to exist within the City and created the Redevelopment Area, as defined in Chapter 163, Part III, Florida Statutes (the "Redevelopment Act"); (ii) established the Riviera Beach Community Redevelopment Agency (the "Agency"); (iii) approved the community redevelopment plan for the Redevelopment Area; and (iv) created the Riviera Beach Community Redevelopment Trust Fund, all as contemplated by the Redevelopment Act; and

**WHEREAS**, the City Council has made certain loans to the Riviera Beach Community Redevelopment Agency (the "Agency"), with an outstanding aggregate balance as of the date hereof of \$1,079,018; and

**WHEREAS**, such prior loans have been reflected by terms of Interlocal agreements dated July 2000, September 2004, November 2005, February 2006 and June 2006 (collectively, the "Prior Agreements"); and

**WHEREAS**, the City Council is desirous of restating the existing loans in the form of a loan agreement and providing for certain modified terms with respect thereto, and of adding an additional loan and a mechanism for future loans and providing the terms with respect thereto;

**NOW, THEREFORE**, in consideration of the mutual benefits flowing from each other, the City and the CRA do hereby agree as follows:

## ARTICLE I

### PAYMENTS BY THE AGENCY

1.1 The above recitals are true and hereby made a part of this Agreement.

1.2 The City has as of the date hereof loaned \$2,443,000 to the CRA for the purpose of paying the cost of agency activities, including operations, planning, and other related activities, \$1,079,018 of which loaned amount remains unpaid and outstanding (the "Outstanding Loan Amount") as of October 1<sup>st</sup>, 2009.

1.3 The CRA shall pay by March 31st, 2010, the balance of the Outstanding Loan Amount. Such amount shall be included in the CRA's budget as an expense item until paid.

1.4 The Outstanding Loan Agreement will bear no interest during the period of this Agreement.

1.5 The CRA is in need of financial resources to pay the developer of the public beach for various improvements to the site. Those improvements are required by the agreement signed jointly by the City, the CRA and OMRD. Improvements are for infrastructure in the amount of \$5M, parking lot improvements of \$1M which is one half the total with the developer paying the other half, and \$4.3M for improvements to the dry sand beach area on the east side of the Ocean Mall. An additional \$100K is added as contingency for any unanticipated fees or increases as may be required.

1.6 (A) The City hereby agrees to loan to the CRA an additional \$10.4 million (the "OMRD'09 Loan Amount"). Such OMRD'09 Loan Amount shall bear interest at a rate of 4.75 percent per annum and shall be payable by March 31st of each year commencing March 31st, 2010, in an annual payment of \$985,100 until such time as the Additional Loan Amount has been paid.

(B) The CRA may prepay, at any time and at its option, a portion of the balance of the OMRD'09 Loan Amount without penalty.

(C) The obligation of the CRA to repay the Outstanding Loan Amount shall be subordinate to any obligation to repay bonds issued by the CRA (or the City on behalf of the CRA) or by any community development district created or approved by the City.

1.7 The City may from time to time make additional loans to the CRA, the terms of which shall be reflected and encompassed by the terms of this Agreement.

## ARTICLE II

### REPRESENTATION; WARRANTIES; COVENANTS

#### 2.1 Representations and Warranties of the Agency.

The Agency represents and warrants to the City that each of the following statements is presently true and accurate:

(A) The Agency is a body corporate and politic under the laws of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

(B) This Agreement has been duly authorized by all necessary action on the part of, and has been or will be, duly executed and delivered by the Agency, and neither the execution and delivery hereof, nor compliance with the terms and provisions hereof, (i) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein, (ii) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency or any indenture, mortgage, deed of trust, bank loan or credit agreement, applicable ordinances, resolutions or, on the date of this Agreement, any other agreement or instrument to which the Agency is a party, or by which it or its properties are bound, specifically including any covenants of any bonds, notes or other forms of indebtedness outstanding on the Effective Date of this Agreement, or (iii) contravenes or results in any breach of, or default under any agreement applicable to the Agency, or the Agency results in the creation of any lien or encumbrance upon any property of the Agency.

(C) The Agreement constitutes a legal, valid and binding obligation of the Agency, enforceable against the Agency in accordance with the terms hereof, except as such enforceability may be limited by public policy or applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(D) There are no pending or, to the knowledge of the Agency, threatened actions or proceedings before any court or administrative agency, or against any officer of the Agency, which question the validity of this Agreement or any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of the Agency.

#### 2.2 Covenants of the Agency

The Agency covenants with the City that:

(A) The Agency shall timely fulfill, or cause to be fulfilled, all of the conditions expressed herein which are within the control of the Agency or which are the responsibility of the Agency to fulfill.

(B) During each year this Agreement, and the obligations under this Agreement, shall be in effect, the Agency shall cause to occur and to continue to be in effect those agreements, instruments, documents, certificates and events contemplated by this Agreement that are applicable to, and the responsibility of, the Agency.

### 2.3 Representations and Warranties of the City.

The City represents and warrants to the Agency that each of the following statements is presently true and accurate:

(A) The City is a validly existing municipal corporation organized under the laws of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

(B) This Agreement has been duly authorized by all necessary action on the part of, and has been or will be, duly executed and delivered by the City, and neither the execution and delivery hereof, nor compliance with the terms and provisions hereof, (i) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein, (ii) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on any indenture, mortgage, deed of trust, bank loan or credit agreement, applicable ordinances, resolutions or, on the date of this Agreement, any other agreement or instrument to which the City is a party, or by which it or its properties are bound, specifically including any covenants of any bonds, notes or other forms of indebtedness outstanding on the Effective Date of this Agreement, or (iii) contravenes or results in any breach of, or default under any agreement applicable to the City, or the City results in the creation of any lien or encumbrance upon any property of the City.

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**ARTICLE III**  
**MISCELLANEOUS**

3.1 This Agreement may be amended only with the written approval of the CRA and the City.

3.2 This Agreement supersedes all written or oral representations, statements or agreements previously existing between the CRA and City with respect to the subject matter of this Agreement. All of the Prior Agreements are hereby superseded and no longer in effect.

3.3 Failure to insist on strict performance of any covenant, condition or provision of this Agreement by the CRA or the City shall not be deemed a waiver of any of either party's rights or remedies; nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this Agreement.

3.4 If any term or provision of this Agreement shall be held to any extent invalid or unenforceable as against any person, entity or circumstance during the term hereof by force of any statute, law or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, and to that extent, the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.

3.5 Unless extended by mutual agreement of the City and the CRA, this Agreement shall expire at such time as the Outstanding Loan Amount has been fully paid.

3.6 All covenants, stipulations, obligations and agreements of the City and the CRA contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City and the CRA, respectively, to the full extent authorized by Chapter 163, Florida Statutes, and provided by the Constitution and laws of the State of Florida.

3.7 No covenants, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligations or agreement of any present or future member of the governing body or agent or employee of the City or the CRA in its, his, her, or their individual capacity, and neither the members of the governing body of the City or the CRA, nor any official executing this Agreement, shall be liable personally, or shall be subject to any accountability, by reason of the execution by the City or the CRA of this Agreement or any act pertaining hereto.

3.8 Nothing contained in this Agreement shall constitute or create a lien, either legal or equitable, on any of the City's or the CRA's ad valorem revenues or funds. No person shall ever have the right to compel any exercise of the ad valorem taxing power of the City or the CRA, nor shall this Agreement constitute a charge, lien or

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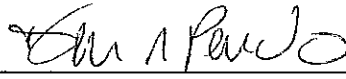
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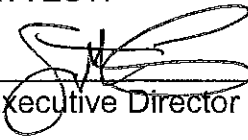
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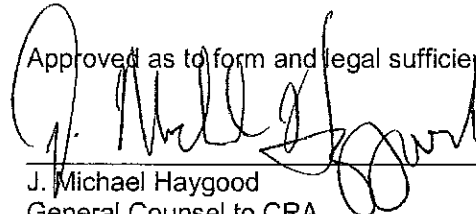
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