



**SPECIAL CITY COUNCIL MEETING
AGENDA**

RIVIERA BEACH, FL 33404

April 11, 2017

6:30 PM

NOTICE

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THE PROCEEDINGS SHALL CONTACT THE OFFICE OF THE CITY MANAGER AT 561-845-4010 NO LATER THAN 96 HOURS PRIOR TO THE PROCEEDINGS; IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICES 1-800-955-8771 (TDD) OR 1-800-955-8770 (VOICE) FOR ASSISTANCE.

MAYOR

THOMAS A. MASTERS

CHAIRPERSON

TERENCE "TD" DAVIS - DISTRICT 5

CHAIR PRO-TEM

KASHAMBA L. MILLER-ANDERSON - DISTRICT 2

COUNCILPERSONS

LYNNE L. HUBBARD - DISTRICT 1

TONYA DAVIS JOHNSON - DISTRICT 3

DAWN S. PARDO - DISTRICT 4

ADMINISTRATION

JONATHAN E. EVANS, CITY MANAGER

CLAUDENE L. ANTHONY, CMC, CITY CLERK

ANDREW DeGRAFFENREIDT, III, CITY ATTORNEY

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the City Council with respect to any matter considered at this meeting, such interested person, at own expense, will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, pursuant to F.S. 286.0105.

LOBBYING - ORDINANCE 4001 - ADOPTED SEPTEMBER 2011

Lobbyist registration and reporting forms are available for you online and in print. Forms can be obtained in the Office of the City Clerk & in the Council Chambers. Registration and reporting forms shall be submitted to the Office of the City Clerk.

ANY PERSON WHO WOULD LIKE TO SPEAK ON AN AGENDA ITEM; PLEASE FILL OUT A PINK PUBLIC COMMENT CARD LOCATED IN THE BACK OF THE COUNCIL CHAMBERS AND GIVE IT TO THE STAFF PRIOR TO THE ITEM BEING TAKEN UP BY CITY COUNCIL FOR DISCUSSION. MEMBERS OF THE PUBLIC SHALL BE GIVEN A TOTAL OF THREE (3) MINUTES TO SPEAK ON ALL ITEMS LISTED ON THE CONSENT AGENDA. MEMBERS OF THE PUBLIC WILL BE GIVEN THREE (3) MINUTES TO SPEAK ON EACH REGULAR AGENDA ITEM. IN NO EVENT WILL ANYONE BE ALLOWED TO SUBMIT A COMMENT CARD AND SPEAK ON AN AGENDA ITEM AFTER THE RESOLUTION IS READ OR ITEM CONSIDERED.

CALL TO ORDER

Roll Call

Invocation

Pledge of Allegiance

AGENDA Approval:

Additions, Deletions, Substitutions

Disclosures by Council

Adoption of Agenda

Comments From the Public on Consent Agenda (Three Minute Limitation)

CONSENT AGENDA

ALL MATTERS LISTED UNDER THIS ITEM ARE CONSIDERED TO BE ROUTINE AND ACTION WILL BE TAKEN BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCILPERSON SO REQUESTS, IN WHICH EVENT, THE ITEM WILL BE REMOVED FROM THE GENERAL ORDER OF BUSINESS AND CONSIDERED IN ITS NORMAL SEQUENCE ON THE AGENDA.

MINUTES

RESOLUTIONS

END OF CONSENT AGENDA

PETITIONS AND COMMUNICATIONS FOR FILING

AWARDS AND PRESENTATIONS

PUBLIC HEARINGS

COMMENTS FROM THE PUBLIC - 7:30 PM Non-Agenda Item Speakers (Three Minute Limitation)

Public Comment should be restricted to issues, matters, or topics pertinent to the City of Riviera Beach. Please be reminded that the City Council has adopted "Rules of Decorum Governing Public Conduct during Official Meetings", which has been posted at the entrance of the Council Chambers. In an effort to preserve order, if any of the rules are not adhered to, the Council Chair may have any disruptive speaker or attendee removed from the podium, from the meeting and/or the building, if necessary. Please govern yourselves accordingly.

Public Comments shall begin at 7:30 PM unless there is no further business of the City Council, which in that event, it shall begin sooner. In addition; if an item is being considered at 7:30 PM, then comments from the public shall begin immediately after the item has been concluded.

REGULAR - OLD BUSINESS

1. **RESOLUTION NO. _____ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING GSF, FLORIDA RETAIL, LLC (GSF), THE CURRENT LESSEE OF THE OCEAN MALL, TO TRANSFER GSF'S LEASEHOLD INTEREST IN THE OCEAN MALL TO RH 2401 OCEAN, LLC. AND AUTHORIZING THE EXECUTION OF THE AMENDMENT OF MEMORANDUM OF LEASE TO REFLECT THE PROPERTY DESCRIPTION; AND PROVIDING AN EFFECTIVE DATE.**
2. **DISCUSSION AND DELIBERATION BY COUNCIL OF C.A.P. GOVERNMENT, INC. AND THE COLD STORAGE.**
3. **MAYOR THOMAS A. MASTERS APPOINTS HORACE**

**TOWNS TO THE RIVIERA BEACH HOUSING
AUTHORITY BOARD.**

REGULAR

ITEMS TABLED

DISCUSSION AND DELIBERATION

BOARD APPOINTMENTS

4. CITY COUNCIL TO NOMINATE PLANNING & ZONING
BOARD MEMBERS.

DISCUSSION BY CITY MANAGER

DISCUSSION BY CITY ATTORNEY

CITY COUNCIL COMMITTEE REPORTS

STATEMENTS BY THE MAYOR AND CITY COUNCIL

ADJOURNMENT

CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2017

Agenda Category:

Subject: Resolution approving the transfer of the Ocean Mall lease from GSF Florida Retail LLC to RH 2401 OCEAN, LLC

Recommendation/Motion: Staff recommends approving consenting to GSF, Florida Retail, LLC's, request to transfer leasehold interest from of the Ocean Mall to RH 2401 Ocean, LLC and authorizing the execution of the amendment of memorandum of lease to reflect the property description.

Originating Dept Executive **Costs** \$63,000 annually paid to the City

User Dept. Executive **Funding Source**

Advertised No **Budget Account Number**

Date

Paper

Affected Parties Not Required

Background/Summary:

Summary

On February 2, 2017, GSF Florida Retail LLC formally requested the City's consent to the transfer of GSF Florida Retail LLC's leasehold interest in the Ocean Mall to RH 2401 OCEAN, LLC.

On February 2, 2017, GSF Florida Retail LLC formally requested the City's consent to the transfer of GSF Florida Retail LLC's leasehold interest in the Ocean Mall to RH 2401 OCEAN, LLC.

RH 2401 OCEAN, LLC is owned and managed by Duncan Hillsley Capital, LLC. The principles of Duncan Hillsley Capital, LLC are W. Thomas Duncan who serves as President and Shane Hillsley who serves as Managing Director.

Duncan Hillsley Capital, LLC (DHC) is a fully integrated, private commercial real estate investment company based in Boca Raton, Florida. DHC was formed in January 2009 to capitalize on the dislocation of the commercial real estate market by acquiring distressed and underperforming assets as well as assisting other investors in restructuring and recapitalizing their portfolios. DHC's management team has extensive experience in all aspects of the real estate industry including sponsorship, private equity, commercial lending, and brokerage as they have worked from every side of the table. Since DHC's inception it has acquired \$700 million in real estate assets and assisted other investors in the workout and recapitalization of \$370 million in problem real estate loans.

Background

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, as Tenant ("OMRD"). 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. 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 was subsequently assigned to GSF Trust 2011-1. Right 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. It was on or about May 15, 2013, that 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. The First Amendment provided that in the event that Phase I was not completed by May 31, 2014, the Lease would automatically terminate and the Premises would be surrendered to the City, except in the instance that failure to complete Phase I was based upon “Unavoidable Delay” as defined in Section 35(o) of the Lease. The Tenant paid the City \$250,000 for the extension.

Second Amendment

Thereafter on January 15, 2014, a Second Amendment was entered into between the parties which: (a) extended the Phase I Completion Date from May 31, 2014 to March 28, 2015, and provided the Tenant with up to an additional 12 monthly extensions beyond March 28, 2015 to effectuate the Phase I completion; (b) amended 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) provided 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) revised the legal description of the Leased Premises to exclude the North Ocean Boulevard Strip.

Third Amendment

Two months later, the parties entered into a Third Amendment on March 19, 2014, 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.

Fourth Amendment

Tenant advised that it needed a more permanent parking solution than that agreed to in the Third Amendment and requested to use the “hotel parcel” as permanent parking for the duration of the Lease. In exchange, the Tenant agreed to install, at its cost, a parking system for the city. All revenue from the parking system will go to the City. The City determined that a kiosk system would be the best parking system and will be working in the next two months with Tenant to select an appropriate type.

Moreover, the Fourth Amendment gave the City a set \$63,000 per year as rent as opposed to the revenue system that was in place. It was determined that for planning purposes it is best for the City to receive a set amount that will not fluctuate year to year. Prior to this amendment, since the lease’s inception, the City has received less than \$30,000 per year for rent on the Ocean Mall.

The Amendment gave the city more control over who Tenant can assign the lease too, and specifically allows the City to refuse an assignment to anyone (person or entity) who litigates against the City.

Fiscal Years

Capital Expenditures

Operating Costs

External Revenues

Program Income (city)

In-kind Match (city)

Net Fiscal Impact

NO. Additional FTE Positions (cumulative)

III. Review Comments

A. Finance Department Comments:

B. Purchasing/Intergovernmental Relations/Grants Comments:

C. Department Director Review

C. Department Director Review.

Contract Start Date December 2006

Contract End Date December 2056

Renewal Start Date N/A

Renewal End Date N/A

Number of 12 month terms this renewal N/A

Dollar Amount \$63,000 annually

Contractor Company Name GSF Florida Retail, LLC

Contractor Contact

Contractor Address

Contractor Phone Number

Contractor Email

Type of Contract

Describe

ATTACHMENTS:

File Name	Description	Upload Date	Type
RESOLUTION_Ocean_Mall_Transfer_March_1_2017.doc	RESOLUTION OCEAN MALL TRANSFER MARCH 1, 2017	2/23/2017	Cover Memo
Modified_Document_Amendment_to_Memorandum_of_Lease.docx	Amendment to Memorandum of Lease	2/23/2017	Cover Memo
022316_Fourth_Amendment_to_Ocean_Mall_Resolution_for_March_2016_meeting.doc	Resolution - Fourth Amendment to Ocean Mall Ground Lease - Retail	2/24/2016	Cover Memo
Ocean_Mall_4th_Amendment_to_Ground_Lease_FINAL_2_23_16.docx	Ocean Mall Fourth Amendment to Ground Lease	2/24/2016	Cover Memo
031114_Third_Amendment_to_the_Ocean_Mall_Ground_Lease_Retail.pdf	Third Amendment to Ocean Mall Ground Lease Retail	2/24/2016	Cover Memo
GSF_Florida_Retail_-_Exhibit_A_to_Fourth_Amendment_to_Ground_Lease_(draft____.pdf	GSF Florida Retail - Exhibit A to Fourth Amendment to Ground Lease	2/25/2016	Exhibit
010814_2nd_Amendment_to_Ground_Lease_-_Retail_Ocean_Mall.pdf	Second Amendment to Ground Lease	2/24/2016	Cover Memo

010814_1st_Amendment_to_Ground_Lease_-_Retail_Ocean_Mall.pdf	- Retail Ocean Mall First Amendment to Ground Lease - Retail Ocean Mall	2/24/2016	Cover Memo
030812_resolution_no._181-06_Ground_Lease_Retail_Execution_Copy.pdf	Ground Lease Retail	2/24/2016	Cover Memo
Downtown_Dadeland-_Summary_(002).pdf	Dadeland Project	2/23/2017	Cover Memo
Duncan_Hisllsley_Capital__LLC.pdf	Duncan Hisllsley Capital	2/23/2017	Cover Memo
032217_Request_for_Consent_to_Tranfer_Lease_letter_received_032217_attached.pdf	032217 Request for Consent to Tranfer Lease letter received 032217 attached	3/29/2017	Cover Memo
FINAL_Report_with_Exhibits.pdf	FINAL Report with Exhibits	3/29/2017	Cover Memo
OCEAN_MALL_AGREEMENT_WITH_CRA_10M.pdf	OCEAN MALL AGREEMENT WITH CRA 10M	3/29/2017	Cover Memo
Ocean_Mall_Lease_Transfer_-_Richards.pdf	Ocean Mall Lease Transfer - City Manager to Richards	3/29/2017	Cover Memo
GSF_Letter_from_the_City_March_2_2017.pdf	GSF Letter from the City March 2 2017	3/29/2017	Cover Memo
GSF_Letter_from_the_City_Nov_2016.pdf	GSF Letter from the City Nov 2016	3/29/2017	Cover Memo
Ocean_Mall_Supplemental_Information_-_April_11__2017._04112017.pdf	Ocean Mall Supplemental Information - April 11, 2017	4/11/2017	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
City Manager	Jones, Danny	Approved	3/29/2017 - 5:43 PM

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING GSF, FLORIDA RETAIL, LLC (GSF), THE CURRENT LESSEE OF THE OCEAN MALL, TO TRANSFER GSF'S LEASEHOLD INTEREST IN THE OCEAN MALL TO RH 2401 OCEAN, LLC. AND AUTHORIZING THE EXECUTION OF THE AMENDMENT OF MEMORANDUM OF LEASE TO REFLECT THE PROPERTY DESCRIPTION; AND PROVIDING AN EFFECTIVE DATE.

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 "Leased 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 Leased 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, Article 10 of Land Lease from the City ("lessor") and the subsequent Amendments thereto provide for the assignment and subletting of Lessee's interest in the lease; and

WHEREAS, on Feb 2, 2017 the Lessee made a request of the City to consent to the transfer of its interest in the lease and the City had 30 days to respond to the Tenant's request for such consent; and

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

SECTION 1. The City Council hereby consents to GSF, Florida Retail, LLC's, request to transfer leasehold interest from of the Ocean Mall to RH 2401 Ocean, LLC and authorizing the execution of the amendment of memorandum of lease to reflect the property description.

SECTION 2. This Resolution shall take effect upon its passage and approval by City Council.

RESOLUTION NO. _____
Page 2 of 2

PASSED and APPROVED this _____ day of _____, 2017.

APPROVED:

THOMAS A. MASTERS
MAYOR

TERENCE D. DAVIS
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

KaSHAMBA L. MILLER-ANDERSON
CHAIR PRO TEM

LYNNE L. HUBBARD
COUNCILPERSON

TONYA DAVIS JOHNSON
COUNCILPERSON

DAWN S. PARDO
COUNCILPERSON

MOTIONED BY: _____

SECONDED BY: _____

L. HUBBARD _____

K.MILLER-ANDERSON _____

T. DAVIS JOHNSON _____

D. PARDO _____

T. DAVIS _____

REVIEWED AS TO LEGAL SUFFICIENCY

ANDREW DEGRAFFENREIDT, III
CITY ATTORNEY

DATE: _____

This Instrument was Prepared By,
Record and Return To:

_____, Esq.

AMENDMENT TO MEMORANDUM OF LEASE

THIS AMENDMENT TO MEMORANDUM OF LEASE is entered into this ____ day of _____, 2017 by and between **THE CITY OF RIVIERA BEACH, FLORIDA, a Florida municipal corporation** (the “Landlord” or the “City”) and **GSF FLORIDA RETAIL LLC, a Delaware limited liability company** (the “Tenant”).

WITNESSETH

WHEREAS, Landlord and OMRD, LLC a Delaware limited liability company (the “Original Tenant”) entered into that certain Ground Lease – Retail dated December 18, 2006 (the “Original Lease”);

WHEREAS, Landlord and Original Tenant entered into that certain Memorandum of Lease dated September 26, 2008 and recorded in Official Records Book 22898 at Page 1582 in the Public Records of Palm Beach County, Florida evidencing the Original Lease (the “Memorandum of Lease”);

WHEREAS the Original Lease was subsequently amended by Landlord and Tenant (as successor to Original Tenant) by the following: (i) that certain First Amendment to Ground Lease – Retail Ocean Mall dated May 14, 2013 (the “First Amendment”); (ii) that certain Second Amendment to Ground Lease – Retail Ocean Mall dated January 15, 2014 (the “Second Amendment”); (iii) that certain Third Amendment to Ground Lease – Retail Ocean Mall dated March 19, 2014 (the “Third Amendment”); and (iv) that certain Fourth Amendment to Ground

Lease – Retail Ocean Mall dated March 2, 2016 (the “Fourth Amendment” and collectively with the First Amendment, the Second Amendment, and the Third Amendment, the “Lease Amendments”). The Original Lease as modified by the Lease Amendments is herein referred to as the “Lease”; and

WHEREAS, Landlord and Tenant now wish to modify the Memorandum of Lease so as to reflect an amendment to the legal description of the Leased Premises (as such term is defined in the Lease) which was provided for in the Second Amendment.

NOW THEREFORE, in consideration of the premises, Ten Dollars (\$10.00) in hand paid by each party hereto to the other party, and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the Landlord and Tenant agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein by reference as if set forth in full.

2. Leased Premises. The legal description of the Leased Premises is set forth in **Exhibit “A”** attached hereto and made a part hereof and such **Exhibit “A”** replaces and supersedes the Exhibit “A” attached to the Memorandum of Lease.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment to Memorandum of Lease the date first written above.

THE CITY OF RIVIERA BEACH, FLORIDA

ATTEST:

By: _____
Name: _____
Title: City Clerk

By: _____
Name: _____
Title: Mayor

Witnesses:

Print Name: _____

Print Name: _____

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

Name: _____
Title: _____

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

Witnesses:

Print Name: _____

Print Name: _____

By: _____
Name: _____
Title: _____

[Acknowledgments Appear on the Following Page]

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, Mayor, and _____, City Clerk all of THE CITY OF RIVIERA BEACH, FLORIDA, on behalf of the City, of who

_____ are personally known to me OR
_____ have produced _____ as identification

NOTARY PUBLIC
NOTARY NAME: _____
Serial (Commission) Number: _____

(NOTARY STAMP)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, as _____ of GSF FLORIDA RETAIL LLC, a Delaware limited liability company, on behalf of the limited liability company, of who

_____ is personally known to me OR
_____ has produced _____ as identification

NOTARY PUBLIC
NOTARY NAME: _____
Serial (Commission) Number: _____

(NOTARY STAMP)

EXHIBIT "A"

LEGAL DESCRIPTION OF LEASED PREMISES

PARCEL "B" AND PORTIONS OF PARCELS "C" AND "D", OF THE PLAT OF RIVIERA 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 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 SAID OCEAN AVENUE, AS SHOWN ON SAID PLAT OF RIVIERA 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 RIVIERA 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 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°58'36" EAST, A DISTANCE OF 365.26 FEET TO THE POINT OF BEGINNING.

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.: _____

PAGE -2-

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

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 Rent herein reserved shall be absolutely net to Landlord so that this Lease shall yield net to Landlord the ~~Percentage~~ 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

CITY OF RIVIERA BEACH

BY: _____
Thomas A. Masters
Mayor

TENANT

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

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

Print Name: _____

Print Name: _____

WITNESSES FOR TENANT

Print Name: _____

Print Name: _____

Purchasing Initials _____

EXHIBIT A

Additional Parking Area

[attached]

**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

CITY OF RIVIERA BEACH

BY: _____
Thomas A. Masters
Mayor

TENANT

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

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

Print Name: _____

Print Name: _____

WITNESSES FOR TENANT

Print Name: _____

Print Name: _____

EXHIBIT A

Additional Parking Area

[attached]



Exhibit A

Ocean Mall Additional
Parking Area
(aka Phase II)

0 100 200 400 Feet

Legend

-  Additional Parking Area
-  Parcels
-  Roads
-  City Boundary



SECOND FLOOR

FIRST FLOOR

**PROPOSED
BUILDING B**

BUILDING C

BUILDING D

N. OCEAN AVE.

unimproved
areas

BEACH RD.

ADDITIONAL PARKING AREA

0 25 50 100
GRAPHIC SCALE

OCEAN MALL
SINGER ISLAND, FL 33404

Mail and Tenant Building
(From Leasable Area)

BLDG. A	30,786 SF
BLDG. B	9,125 SF
BLDG. C	9,125 SF
BLDG. D	16,184 SF
<hr/>	
TOTAL GLA	65,220 SF

LEASE PLAN

**LEASING &
MANAGEMENT
AGENTS:**

URBAN



RETAIL PROPERTIES, LLC.

925 S. Federal Highway
Suite 700
Boca Raton, FL 33432
561-394-6433

NOV. 2015

**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: _____

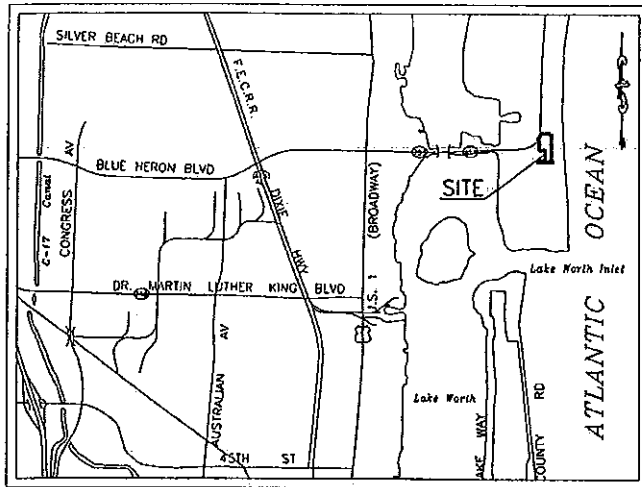
Print Name: _____

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 RIVIERA 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 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 923.71 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 RIVIERA 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 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°58'36" 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 RIVIERA 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*

DAVID E. ROHAL

PROFESSIONAL SURVEYOR AND MAPPER NO. LS 4315
STATE OF FLORIDA

11-22-13



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 LIST	OF 2

Exhibit A

**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(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~~

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.

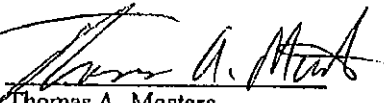
Section 5. In all other respects, the remainder of the Lease shall remain in full force and effect and unmodified, and the parties agree to perform all duties and obligations as set forth therein. In the event there is a conflict between the Lease and this Amendment, the Amendment shall control. This 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

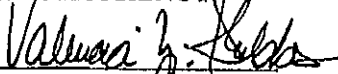
GSF FLORIDA RETAIL LLC, a
Delaware limited liability company
By: ~~GSF Trust 2011-1~~, its manager.

BY: 
Name: JULIAN WELDON
Title: SECRETARY

ATTEST:

BY: _____
Carrie E. Ward
City Clerk, MMC

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
Pamela 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.

RESOLUTION NO. 181-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A GROUND LEASE CONCERNING THE OCEAN MALL BETWEEN THE CITY AND OMRD, LLC; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 23, 2003, the City of Riviera Beach Community Redevelopment Agency ("CRA") issued its request for proposals RFP-03-01 ("RFP") soliciting a developer or developers to redevelop certain beachfront property (the "Project") within the City of Riviera Beach, Florida (the "City"); and

WHEREAS, three (3) developers responded to the RFP; and

WHEREAS, the CRA, after a public review process, ranked the developers who responded to the RFP and directed City and CRA staff to negotiate the terms under which the developer would lease certain land from the City to develop, construct and operate the Project in accordance with the requirements of the RFP; and

WHEREAS, when the CRA and the first-ranked developer reached an impasse, the CRA commenced negotiations with the second-ranked developer, and the CRA and the second-ranked developer entered into a Letter of Intent on August 31, 2005; and

WHEREAS, OMRD, LLC ("OMRD") was formed pursuant to the August 31, 2005 Letter of Intent as the special purpose entity to carry out the development of the Project; and

WHEREAS, the City Council and the CRA at a duly called public meeting held on August 23, 2006, approved the preliminary terms and conditions (including the conceptual site plan) of an agreement between the City of Riviera Beach, CRA and OMRD and authorized staff to negotiate and finalize such agreement with OMRD; and

WHEREAS, the City and the Developer have negotiated that certain Ground Lease - Retail (the "Retail Lease"), in the form attached hereto as Exhibit A, as a separate definitive agreement for the lease of a portion of the land comprising the Project; and

WHEREAS, the City hereby finds and determines that the proposed Project as contemplated by the Retail Lease will be beneficial to tourism and recreation by providing additional services and retail opportunities in the beachfront area.

RESOLUTION NO. 181-06

PAGE -2-

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

SECTION 1. The Mayor and City Clerk to execute a Ground Lease - Retail in the form set forth in Exhibit A attached hereto.

SECTION 2. The Mayor and Clerk are authorized to execute and deliver such documents, instruments and contracts, whether or not expressly contemplated hereby, and the City Attorney, City special counsel and other employees or agents of the City are hereby authorized and directed to do all acts and things required hereby or thereby as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution.

SECTION 3. This Resolution shall take effect immediately upon passage.

PASSED AND APPROVED THIS 18TH DAY OF DECEMBER, 2006.

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RESOLUTION NO. 181-06

PAGE -3-

APPROVED:



MICHAEL D. BROWN
MAYOR



ANN ILES
CHAIRPERSON

ATTEST:



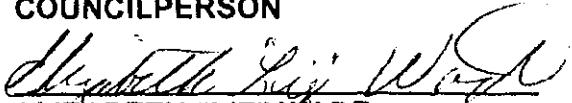
CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

ABSENT

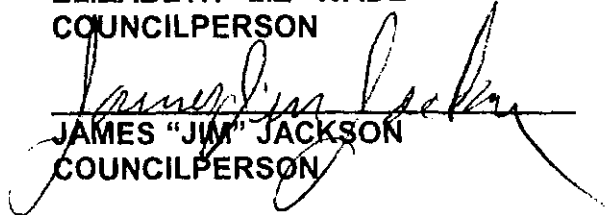
VANESSA LEE
CHAIR PRO TEM



NORMA DUNCOMBE
COUNCILPERSON



ELIZABETH "LIZ" WADE
COUNCILPERSON



JAMES "JIM" JACKSON
COUNCILPERSON

MOTIONED BY: E. WADE

SECONDED BY: N. DUNCOMBE

A. ILES AYE

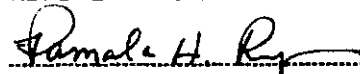
V. LEE ABSENT

N. DUNCOMBE AYE

E. WADE AYE

J. JACKSON NAY

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 12/13/06

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 unexpired 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 if, 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 Catalfumo
Daniel Catalfumo, its President

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: _____

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 $00^{\circ}46'50''$ WEST, A DISTANCE OF 923.92 FEET; THENCE CONTINUE SOUTH $90^{\circ}00'00''$ EAST, A DISTANCE OF 50.46 FEET; THENCE CONTINUE SOUTH $00^{\circ}00'00''$ 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 $90^{\circ}00'00''$ 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 $02^{\circ}36'30''$ 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 $85^{\circ}00'00''$ 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 $02^{\circ}36'30''$ 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 $87^{\circ}23'30''$ 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 $02^{\circ}36'30''$ 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 $66^{\circ}54'51''$ WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF $139^{\circ}02'41''$, 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 $33^{\circ}13'55''$ EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF $20^{\circ}39'46''$, 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 $89^{\circ}58'50''$ 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 $90^{\circ}00'00''$ 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 $02^{\circ}36'30''$ 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 $02^{\circ}36'30''$ EAST, A DISTANCE OF 48.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 415; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, NORTH $00^{\circ}46'50''$ 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 $87^{\circ}23'30''$ 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 $02^{\circ}36'30''$ EAST, A DISTANCE OF 33.56 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, SOUTH $90^{\circ}00'00''$ EAST, A DISTANCE OF 230.17 FEET; THENCE SOUTH $00^{\circ}46'50''$ WEST, A DISTANCE OF 365.03 FEET; THENCE NORTH $90^{\circ}00'00''$ 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-FS1407733v22\091925.010100



DOWNTOWN DADELAND PROPERTY SUMMARY

DOWNTOWN DADELAND

Get in the mix. Get out. Go urban.

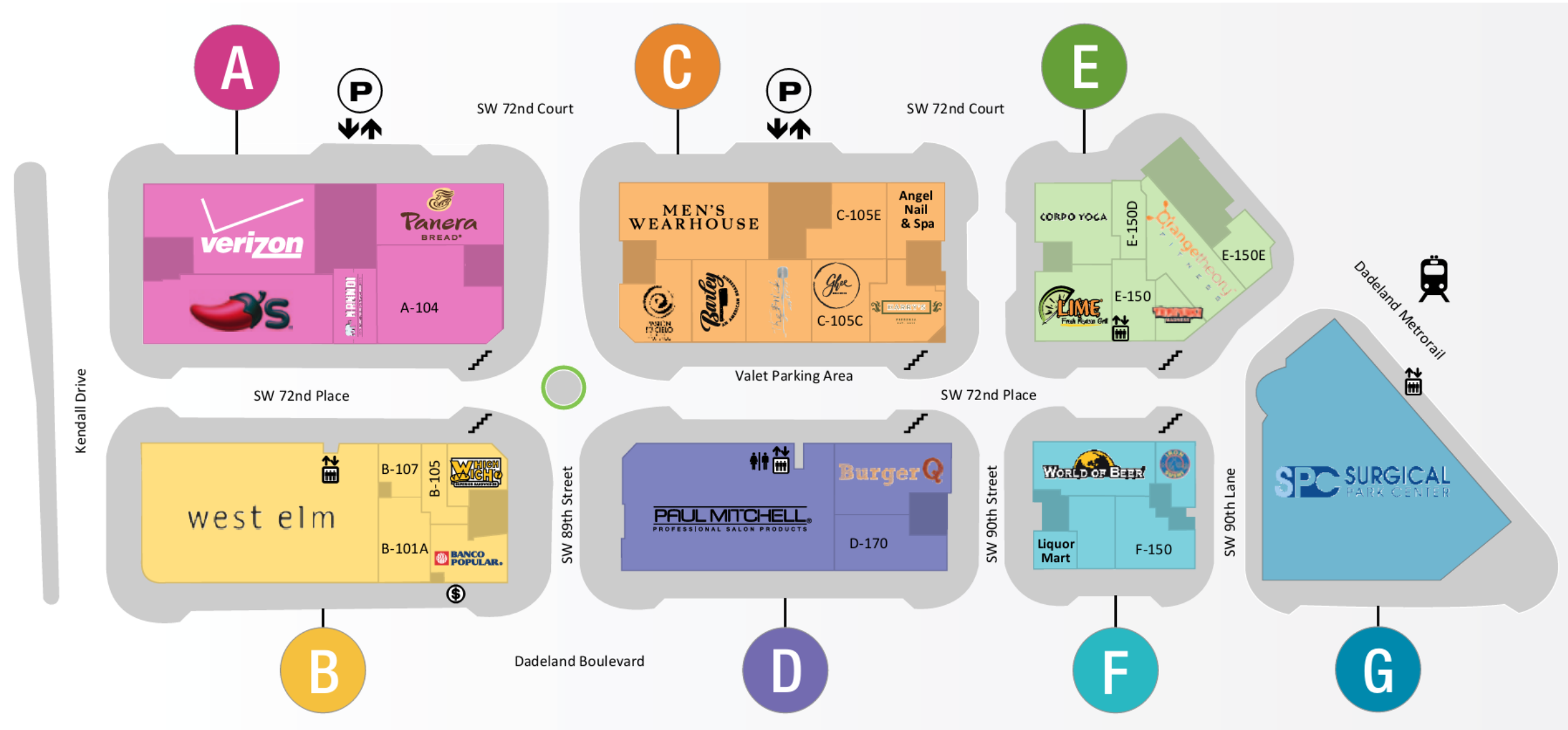
An inventive town center design consisting of 127,635 SF of retail space, six floors of condominium residences, street-level parking and two levels of underground parking in each of the seven buildings. Downtown Dadeland is located on/at the southwest quadrant of US Highway 1 and Kendall Drive in Miami-Dade County, directly across from the enormously successful and dominant Dadeland Mall (Saks Fifth Avenue, Nordstrom, Macy's and JCPenney) and within one of the Southeast's strongest retail sub-markets. Unique and urban, Downtown Dadeland benefits from distinct marketable attributes; its mixed-use design, its proximity to Dadeland Mall and its location in this highly desirable retail corridor. The combination of these attributes will attract a variety of tenants, ranging from local to regional to national operators.



DOWNTOWN DADELAND- PROPERTY PHOTOS



DOWNTOWN DADELAND- SITE PLAN



DOWNTOWN DADELAND– TENANT LIST



Chef Allen Susser:

James Beard Award winner and venerable Miami chef featuring an iconic menu based upon a farm-to-table concept



Chef Michael Schwartz:

James Beard Award winning chef Michael Schwartz's neighborhood American pizzeria, a hip, casual joint for people who love pizza, but who also crave and gather around innovative, genuine cooking



Chef Niven Patel:

former chef alum at Michael's Genuine and a cuisine inspired by the lighter, veggie-forward side of his Indian culture



Chef Jorgie Ramos:

a Miami local whiz uniquely blending classic Spanish style with New Americana/Rustic flare



DOWNTOWN DADELAND— PRESS CLIPPINGS



edible SOUTH FLORIDA



for Miami old-timers, Dadeland means a big shopping mall located under a towering spire with the letter D on it. Today, it's just one part of a busy urban neighborhood of even more retail, condos and offices – and a surprising stretch of distinctive chef-owned restaurants and cafes in Downtown Dadeland, just across Kendall Drive.

Open – or opening soon – are Barley, a comfort food mecca from popular local chef Jorgie Ramos; the new farm-to-table The Brick, guided by Allen Susser; Ghee, a fresh take on Indian cooking by Niven Patel, most recently with Michael Schwartz; and Harry's Pizzeria, Schwartz' third location for the casual American pizza joint. These carefully chosen tenants are part of creating a vibrant community, says Vincent Buoniconti of Duncan Hillsley Capital, developer of the revitalization plan for the mixed-used project.

"We want to be the go-to place for Pinecrest, Palmetto Bay, the Gables, South Miami." He sees Downtown Dadeland as a destination for business lunches, dinners or weekend get-togethers, while events like farmers markets, movie nights and block parties bring together families and friends. Putting together the right mix of restaurateurs was key, says Buoniconti. "Jorgie knows the area well, he's great to work with. We're thrilled to have Niven. And I'm a big fan of Michael's and Harry's Pizzeria."

The concepts work together, but don't duplicate. At the farm-to-table The Brick, named for its brick oven, owner Corey Bousquet plans to take advantage of nearby Homestead farms to source much of the produce. "We've only got one freezer," he says. Under iconic chef Allen Susser's guidance, the menu will include seasonal fare and local fish. Decor includes reclaimed century-old wood and an open kitchen.

Barley, an American brasserie, is already popular with Ramos' fans for his rustic comfort food, like lechon hash and porcini mac and cheese. His new place features craft cocktails in addition to craft beers and boutique wines.

Perhaps the most anticipated restaurant is Ghee, where chef Niven Patel has been teasing fans with images of Indian street food on social media, and selling it occasionally at street markets on weekends. "We want to bring homestyle Gujarati cooking – it's very veg-forward." Patel will be looking for produce from Verde Farm, Michael Borek, Bee Heaven and his own backyard, and is partnering with artisans Babe Froman for jaggery-cured bacon, for example. "We'll have a cool tea program with JoJo Tea. They connect with spice and tea farms to help support them," he says.

Why choose an area like Downtown Dadeland for Ghee rather than a hipper neighborhood, like Wynwood or MiMo? Patel says it's about the landlord. "What I've learned is that the number one relationship is with the landlord. We're working together. Negotiating the lease wasn't a battle – I can see ourselves having a great relationship after five years." Patel also says there's a great spirit of camaraderie, rather than competition, among his restaurant neighbors. "We're all working together, and that's another great thing," he says.

Why choose an area like Downtown Dadeland for Ghee rather than a hipper neighborhood, like Wynwood or MiMo? Patel says it's about the landlord. "What I've learned is that the number one relationship is with the landlord. We're working together. Negotiating the lease wasn't a battle – I can see ourselves having a great relationship after five years."

*- Chef Niven Patel, Owner Ghee Indian Kitchen,
former Executive Chef- Michael's Genuine
Kitchen*

downtown dadeland
a surprising dining scene springs up in kendall



DOWNTOWN DADELAND– PRESS CLIPPINGS

Success AROUND TOWN

MAGAZINE
BRICKELL

DELICIOUS DADELAND

Since 2014, Downtown Dadeland has been undergoing a renaissance. The lifestyle center is now turning into a must-visit culinary destination with several new chef-driven and unique concepts recently opened or coming soon.

TEXT BY SANDY LINDSEY

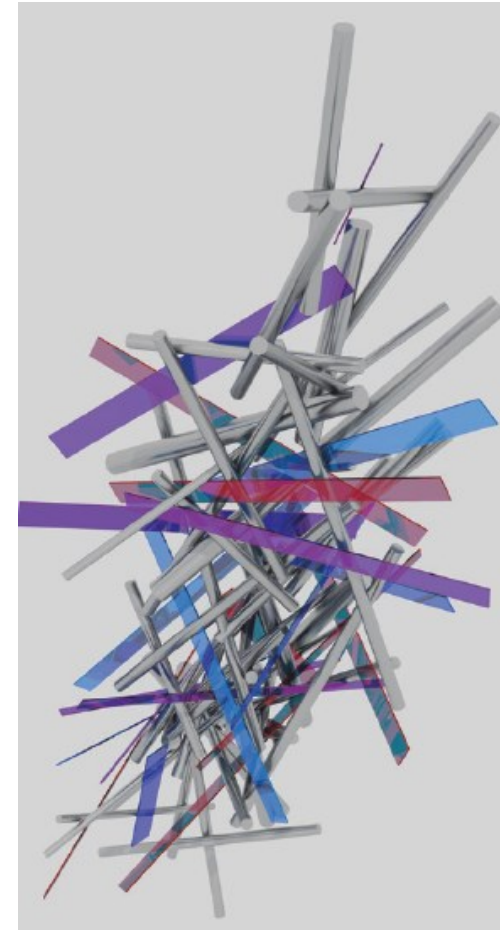
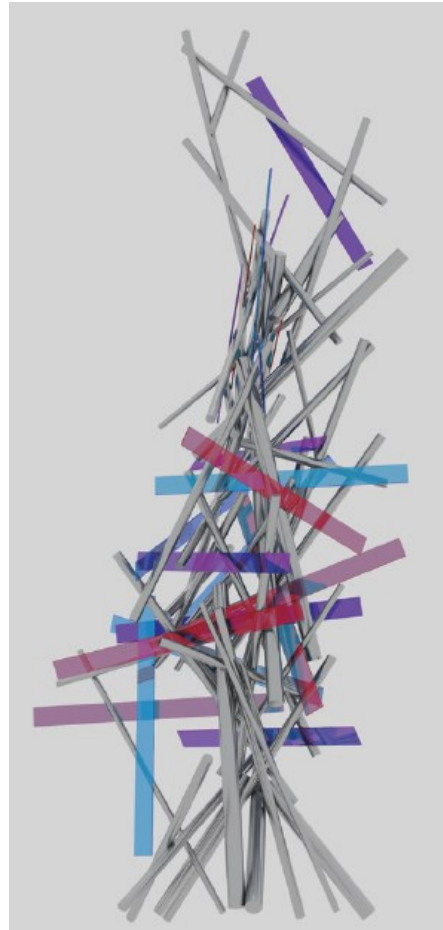


The open air, innovative, mixed-use Downtown Dadeland complex encompasses over 127,635 sq. ft. of retail space that brings together mouthwatering dining, terrific shopping and vibrant health and fitness establishments in one premier lifestyle and culinary destination. Recently opened are Barley, an American Brasserie with a rustic-style gastropub specializing in a unique blend of Spanish and New American comfort food by Chef Jorgie Ramos; and The Brick, a farm-to-table infused concept created by Cory Bosquet and Chef Allen Susser. They join the southern-style BurgerQ and another recent addition, Nanndi Frozen Cream & Pastry Shop, owned by Chef Sabrina Mancin. Coming in December is Ghee Indian Kitchen by Chef Niven Patel, offering traditional Indian home cooking with fresh produce from the chef's 2-acre Homestead farm. Bring your appetite and sense of adventure; DowntownDadeland.com.

DOWNTOWN
DADELAND

CAPITAL IMPROVEMENT SUMMARY

GORDON HUETHER SCULPTURE– To be installed November 2016



CAPITAL IMPROVEMENT SUMMARY

NEW
FRONT ENTRANCE
LIGHT STICKS



NEW
OVERHEAD LIGHTING
STREET LIGHTING



NEW
FRONT ENTRANCE
LIGHT STICKS



CAPITAL IMPROVEMENT SUMMARY

NEW PARKING

WAYFINDING SIGNAGE



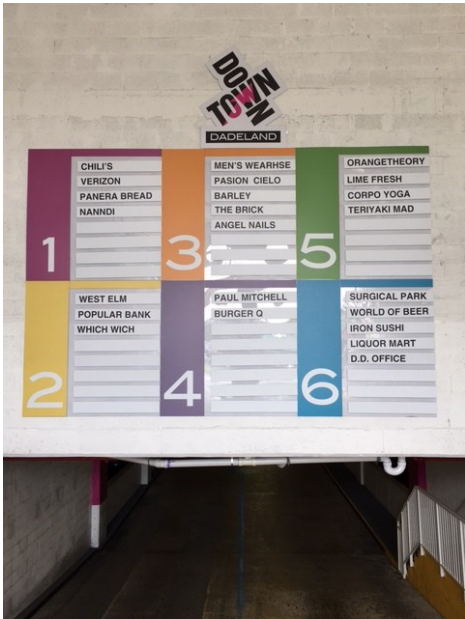
NEW GARAGE

ENTRANCE SIGNAGE



NEW GARAGE

ENTRANCE DIRECTORY



NEW GARAGE

WAYFINDING SIGNAGE



CAPITAL IMPROVEMENT SUMMARY

GARAGE PAINTING



LIGHTING PAINTING



NEW STAIRWELLS



NEW AWNINGS AND BENCHES



FOUNTAIN TILE




DOWNTOWN DADELAND– RE-BRANDING



A fresh urban vision.

A close-to-home, local, vibrant,
feel good, go-to place to be...



...meet, eat, drink, shop, dine,
exercise, celebrate, stroll, chill –

today and everyday



Get out.
Go urban.

DOWNTOWN
DADELAND

DUNCAN HILLSLEY CAPITAL LLC

COMPANY OVERVIEW

Duncan Hillsley Capital LLC (DHC) is a fully integrated, private commercial real estate investment company based in Boca Raton, Florida. DHC was formed in January 2009 to capitalize on the dislocation of the commercial real estate market by acquiring distressed and underperforming assets as well as assisting other investors in restructuring and recapitalizing their portfolios. Our management team has extensive experience in all aspects of the real estate industry including sponsorship, private equity, commercial lending, and brokerage because we have worked from every side of the table. Since DHC's inception it has acquired \$700 million in real estate assets and assisted other investors in the workout and recapitalization of \$370 million in problem real estate loans.

DHC has a market driven investment approach and a reputation for finding unique opportunities to create value across all property types and all levels of the risk-reward spectrum. Most investments made by DHC are as a Sponsor. However, on a select basis, DHC will also invests as a Limited Partners with experienced operating companies with successful track records. Our primary focus is on major markets in Florida, but we will invest in major cities in the southeast US.

W THOMAS DUNCAN
PRESIDENT
TOM@DUNCANHILLSLEY.COM
(561) 961-1814

SHANE HILLSLEY
MANAGING DIRECTOR
SHANE@DUNCANHILLSLEY.COM
(561) 961-1862

BUSINESS LINES

REAL ESTATE INVESTMENTS

Duncan Hillsley Capital has aligned itself with various institutional and high net worth investors making investments in sponsor and third party equity. We are opportunistic in nature and take full advantage of value add situations. However, investment decisions in property types are tempered by geographic concentrations, in-depth analyses of real estate market cycles for specific property types, and economic forecasts that will affect the long term performance of the investment.

DISTRESSED ASSET SERVICES

DHC has extensive experience with underperforming commercial properties and problem loans. Distressed assets meeting the investment criteria above are purchased outright or recapitalized. We have the knowledge and skills to create successful repositioning of the assets targeted. Acquiring and restructuring distressed assets have been our primary business since the onset of the Recession.

RECAPITALIZATIONS

DHC works with existing property owners to resolve loan problems and/or to reposition properties in our market area. DHC has the knowledge, contacts, skillset and expertise to manage effectively negotiations with lenders and to restructure the capitalization of the asset. Typically DHC invests with the general partner, thus allowing the original property owner to continue involvement in the property's operation.

INVESTMENTS

THE ISLES OF GATEWAY

10600 Fourth Street North
St. Petersburg, Florida
212 Apartments Units
Status – Active

Building Description

The Isles of Gateway is a 212-unit garden style apartment community made up of 11 two and three story buildings on 18 acres, originally constructed in 1987. The property is located off Fourth Street North within the Carillon / Gateway office market with direct access to the West Shore office market, downtown St. Petersburg and the beaches. Duncan Hillsley Capital acquired the property in January 2016 through its joint venture with PEBB Capital known as DHPI.



DOWNTOWN DADELAND RETAIL

7250 N Kendall Drive
Miami, Florida
127,635 Retail Square Feet
Status – Active

Building Description

Downtown Dadeland Retail, built in 2008, consists of 127,635 rentable square feet and a 532 space parking garage along Kendall Drive, in Miami Florida. The property is part of a mixed use project which includes 416 residential units and is ideally located across from the 1.4 million square foot Dadeland Mall in the triangle bounded by Kendall Drive, the Palmetto Expressway, and South Dixie Hwy. DHPI, a joint venture between Duncan Hillsley Capital and PEBB Capital, acquired the property in July 2014.



THE CONTINENTAL

4000 Collins Avenue
Miami, Florida
102 Condominium Hotel Units
Status – Active

Building Description

The Continental is a five story, 102-unit condominium hotel originally constructed in 1948. The property is located at the entrance to mid-beach at the southwest corner of 41st Street and Collins Avenue on Miami Beach, Florida. Duncan Hillsley Capital acquired the property in 2015 through its Joint Venture with PEBB Capital known as DHPI.



MARQUESA

145 SW 117th Terrace
Pembroke Pines, Florida
468 Apartment Units
Status – Active

Building Description

The Marquesa Condominium is a 468-unit condominium community built in 1998 in Pembroke Pines, Florida, consisting of 21, 2 and 3-story buildings. The property is located on the south side of Pines Boulevard, just east of I-75 and across the street from the Pembroke Lakes Mall with easily accessible to an extensive list of retailers and grocers as well as employment sources. Duncan Hillsley Capital invested in the acquisition of the remaining 252 developer owned condominium units in December 2014.



VIZCAYNE RETAIL

244 Biscayne Boulevard
Miami, Florida
54,000 Retail Square Feet
Status – Realized

Building Description

Vizcayne Retail consists of 54,000 rentable square feet along Biscayne Boulevard, NE 3rd Street and NE 2nd Street in Downtown Miami. The center is part of the newly constructed Vizcayne Condominium (previously known as Everglades on the Bay) consisting of 849 residential condominium units in two 49-story towers atop a 7-story podium. The retail center also includes a dedicated retail parking garage. The property is ideally located with high visibility on Biscayne Boulevard in the center of the continually growing Downtown market. Duncan Hillsley Capital acquired the center in November 2010.



GRAN VISTA AT DORAL

4190 NW 79th Avenue
Doral, Florida
146 Apartment Units
Status – Active

Building Description

Gran Vista is a to-be-developed 146-unit multifamily community located on NW 79th Avenue between NW 41st Street and NW 48th Street in the City of Doral. The property is well located with easy access to the areas employment and retail centers via Doral Boulevard and the Palmetto Expressway. Construction will commence in early 2014 and is projected to be completed by year end 2015. The 5.9 acre site is currently zoned Multifamily RU-4. Duncan Hillsley Capital invested in the development of the project in 2013.



PARK ON THE SQUARE

9009 University Pkwy.
Pensacola, Florida
240 Apartment Units
Status – Realized

Building Description

Park on the Square is a 240-unit garden style apartment community built in 1999 in Pensacola, Florida. The property is located off University Parkway just South of Nine Mile Road consisting of 27, 2 and 3-story buildings situated on 13 acres. The property is in walking distance to Target and Publix, within 1-mile of the University of West Florida and West Florida Hospital, and is centrally located between Pensacola Naval Air Station and Eglin Air Force Base providing easy access for military personnel. Duncan Hillsley Capital acquired the community in April 2013.



MARINA LANDING

6315 Westgate Drive
Orlando, Florida
260 Apartment Units
Status – Realized

Building Description

Marina Landing is a 260-unit garden style apartment community built in 1991 in Orlando, Florida. The property consists of 21, 2 and 3-story buildings situated on 24 acres of lake-frontage off Hiawassee Road and Raleigh Street in MetroWest. The property benefits from the picturesque landscaping of MetroWest and proximity to downtown Orlando, Universal Orlando Resort, Mall of Millenia and Valencia College. Duncan Hillsley Capital acquired the community in April 2013.



SUMMER COVE

7887 N. Lockwood Ridge Rd.
Sarasota, Florida
224 Apartment Units
Status – Realized

Building Description

Summer Cove is a 224-unit garden style apartment community built in 1996 in Sarasota, Florida. The property is located off University Parkway on Lockwood Ridge Road and consists of 10, 2 and 3-story buildings situated on 27 acres. The property is in close proximity to major retailers including an 880,000 square foot mall currently under construction. University Road is a major East / West artery through Sarasota providing easy access to downtown Sarasota, the Sarasota-Bradenton International Airport, and I-75. Duncan Hillsley Capital acquired the community in April 2013.



VERONA VIEW

10900 NW 17th St.
Plantation, Florida
293 Apartment Units
Status – Realized

Building Description

Verona View is a 293-unit garden style apartment community built in 1990 in Plantation (Greater Fort Lauderdale), Florida. The property consists of 17, 2 and 3-story buildings situated on 29 acres at the south east corner of Sunrise Boulevard and Hiatus Road. Within 2 miles of the property is the 2.3 million square foot Sawgrass Mills Mall, 2.0 million square foot Sawgrass Corporate park, and the BB&T center. The property also has easy access to downtown Fort Lauderdale and Miami via I-595 and the Sawgrass Expressway. Duncan Hillsley Capital acquired the community in April 2013.





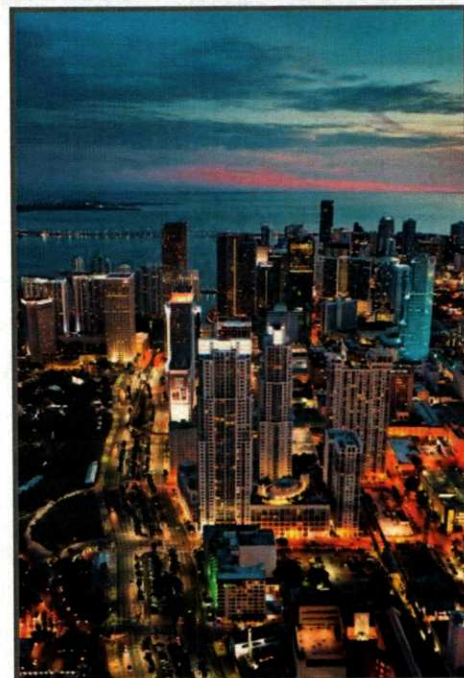
DUNCAN HILLSLEY CAPITAL

VIZCAYNE RESIDENTIAL

244 Biscayne Boulevard
Miami, Florida
849 Condominium Units
Status – Realized

Building Description

Vizcayne (previously known as Everglades on the Bay) is a newly constructed 849-unit residential condominium made up of two 49-story towers atop a 7-story podium in downtown Miami, Florida. The property is ideally located on Biscayne Boulevard with expansive views of Biscayne Bay, South Beach, and Downtown Miami. Duncan Hillsley Capital acquired the remaining 664 developer owned condominium units in November 2010.



FALCON SQUARE

14600 Avenue of the Groves
Winter Garden, Florida
379 Apartment Units
Status – Realized

Building Description

Falcon Square is a 379-unit colonial style apartment community built in 2008 in Winter Garden (Greater Orlando), Florida. The property consists of 11, 3-story buildings situated on 20 acres amongst lush landscaping, nature preserves, and walking trails in the master-planned community of Independence. The property is located in one of the most desirable and affluent areas of greater Orlando adjacent to Windermere, Isleworth, and Orange County National Golf Center. Duncan Hillsley Capital acquired the community in December 2009.



THE OASIS AT PEARL LAKE

1037 Alden Parkway
Altamonte Springs, Florida
316 Condominium Units
Status – Realized

Building Description

The Oasis at Pearl Lake is a 316-unit apartment community built in 1988 and converted to condominium in 2006 in Altamonte Springs (Greater Orlando), Florida. The property consists of 12, 2 and 3-story buildings along Pearl Lake. The property is located on the west side of Altamonte Springs off West Town Parkway via South State Road 434. In walking distance, residents have access to premier retailers and grocers and the property is located in a top rated school district. Duncan Hillsley Capital invested in the acquisition of the remaining 155 developer owned condominium units in June 2011.



SERENATA CONDOMINIUM

8307 38th Street
Sarasota, Florida
240 Condominium Units
Status – Realized

Building Description

The Serenata Condominium is a 240-unit condominium community built in 2005 in Sarasota, Florida, consisting of 10, 3-story buildings on 19 acres. The property is located on the north side of Sarasota off University Parkway via Highway 301. In walking distance, residents have access to premier retailers and grocers and the property is located in close proximity to the Sarasota Bradenton International Airport and Downtown Sarasota. Duncan Hillsley Capital invested in the acquisition of the remaining 39 developer owned condominium units in September 2011.



COURTYARD SAN ANTONIO SIX FLAGS

5731 Rim Pass Drive
San Antonio, Texas
124 Rooms
Status – Active

Building Description

The Courtyard is a 124 room, 5 story limited service hotel built in 2009 in San Antonio, Texas. The property is part of The Rim, a two million square foot development including over 100 premium retailers, service businesses, and luxury residences located on the north side of San Antonio at the intersection of I-10 and I-410. Duncan Hillsley Capital invested in the development of this hotel.



RESIDENCE INN SAN ANTONIO SIX FLAGS

5707 Rim Pass Drive
San Antonio, Texas
131 Rooms
Status – Active

Building Description

The Residence Inn is a 131 room, 6 story limited service hotel built in 2009 in San Antonio, Texas. The property is part of The Rim, a two million square foot development including over 100 premium retailers, service businesses, and luxury residences located on the north side of San Antonio at the intersection of I-10 and I-410. Duncan Hillsley Capital invested in the development of this hotel.



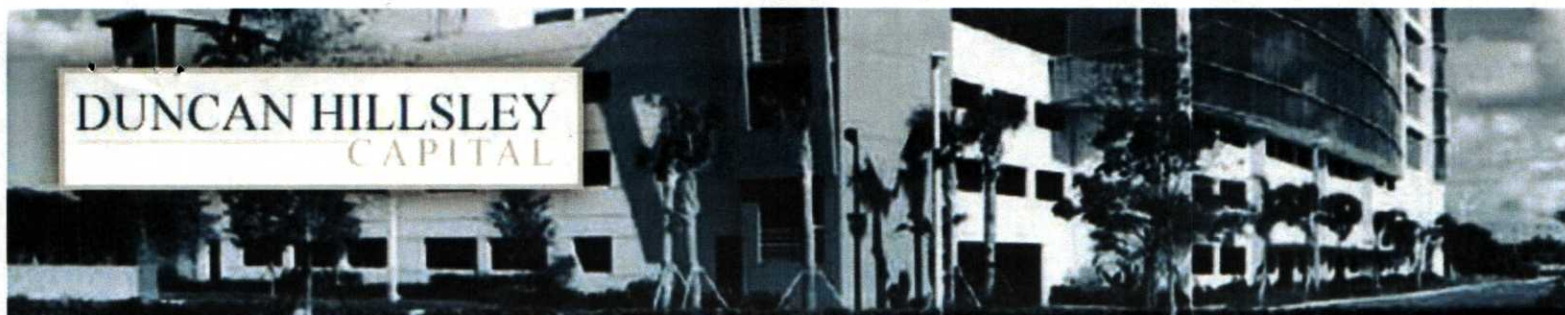
W. THOMAS DUNCAN
PRESIDENT

Mr. Duncan is a veteran of the real estate industry having over 40 years of experience in commercial real estate finance and investment. In January 2009, he founded Duncan Hillsley Capital LLC (DHC), a boutique real estate investment firm that originally focused on the acquisition, repositioning and disposition of distressed real estate assets. By the end of 2011, DHC completed the workouts of approximately \$370 million in problem real estate loans, and to date has acquired approximately \$700 million in real estate assets.

Prior to founding DHC, Mr. Duncan was President of a real estate private equity fund that held more than \$3 billion in assets for a wealthy family. As such, Mr. Duncan managed the daily activities of the full-service real estate investment firm including the oversight of upwards of 14,000 multi-family and condominium units, a 500-room full service hotel, and the development of 2 limited service hotels and a class "A" suburban office building. His duties included sourcing investment opportunities, operating partners and investors, establishing investment criteria and structuring transactions, arranging more than \$1 billion in financing for the firm's assets. In 2006 Duncan had the foresight to liquidate 17 apartment communities that had been bought for condominium conversion and he began the liquidation of the fund's holdings paying off debt and increasing the company's cash position. The task was virtually complete by year-end 2008. He joined this private equity fund in April of 2005.

Prior to joining the private equity fund, Mr. Duncan served as President and Chief Operating Officer for Aztec Group, Inc., a boutique real estate investment firm in Miami, Florida, that specialized in finance at all levels of the capital stack, joint ventures and investment sales. He oversaw the day-to-day activities of the firm and served as an advisor to the firm's clients. In addition, his responsibilities included lender / investor relations with financial institutions as well as keeping abreast of industry trends. Having joined Aztec in 1993, he placed more than \$3.5 billion in debt and equity for the firm's clients. Because of extensive experience in commercial real estate banking and thorough understanding of the inner workings of financial institutions, he was personally involved in Aztec's major financing and marketing assignments.

Prior to joining Aztec, Duncan was an independent consultant specializing in FDIC / RTC problem asset portfolio acquisitions for J.E. Robert / Goldman Sachs and Martin W. Taplin & Associates. In years prior, he held senior positions with major regional banks including Southeast Bank, Florida National Bank and First Union (now Wells Fargo). During his banking career, he managed loan portfolios in excess of \$1 billion and was responsible for the origination of more than \$3 billion in construction and mortgage loans. He was also involved in the workout and restructure and/or liquidation of more than \$1 billion in problem real estate assets. Duncan holds a Bachelor of Arts from Trinity College, Hartford, Connecticut and served over 20 years as a pilot with the U.S. Air Force and Air Force Reserve.



SHANE HILLSLEY
MANAGING DIRECTOR

Mr. Hillsley has 15 years of diversified real estate operating, lending and private equity experience specializing in originating, structuring, and managing of real estate transactions. In January 2009, he co-founded Duncan Hillsley Capital (DHC), a boutique real estate investment firm that originally focused on the acquisition, repositioning, and disposition of distressed real estate assets. By the end of 2011, DHC completed the workouts of approximately \$370 million in problem real estate loans, and to date has acquired approximately \$700 million in real estate assets.

Prior to founding DHC with Mr. Duncan, Mr. Hillsley worked as a Director for a real estate private equity fund that held more than \$3 billion in assets for a wealthy family. As such, Mr. Hillsley was responsible for originating, underwriting, and closing fund investments. Mr. Hillsley was involved in the acquisition, management and disposition of 14,000 multi-family and condominium units, 1.4 million square feet of office, 1,000 hotel rooms, and 100,000 square feet of retail. He joined the private equity fund in December of 2005.

Prior to joining the private equity fund, Mr. Hillsley worked as a Senior Associate Director for GE Real Estate – North America Debt. While at North America Debt, Mr. Hillsley underwrote over \$5 billion in fixed and floating rate debt resulting in the origination of over \$500 million in GE business. Mr. Hillsley also worked as an analyst for GE Real Estate's private equity group where he structured GE's 3rd party equity investment in opportunistic office transactions.

Mr. Hillsley was an honors graduate with a bachelor's degree from the Carlson School of Management at the University of Minnesota. He then joined GE Capital's Financial Management Program (FMP) and graduated at the top of his class.

RECEIVED

MAR 22 2017

**LAW OFFICE OF
WAYNE M. RICHARDS, P.A.**

CITY ATTORNEY'S OFFICE

7681 WOODSMUIR DR
WEST PALM BEACH
FLORIDA 33412
TEL (561) 596-5878
FAX (561) 360-3134
wayne@wrichardslaw.com

March 21, 2017

Andrew DeGraffenreidt
City Attorney
City of Riviera Beach Florida
600 West Blue Heron Blvd.
Riviera Beach, FL 33404

Re: Ocean Mall

Dear Mr. Degraffenreidt:

I am writing in response to your letter dated March 20, 2017. Please be advised that we disagree with the City's position that the notice previously provided was not sufficient under the Lease Agreement. The City had proper and actual notice, and previously requested an extension of time to respond, which shows the City clearly recognized that the notice was proper.

Nevertheless, in response to your letter, please find enclosed a copy of our prior correspondence and notice, as follows:

1. October 12, 2016, written notice requesting consent to transfer lease sent by USPS Overnight courier (copy of original letter and overnight receipt is attached hereto), (Composite Ex. "A")

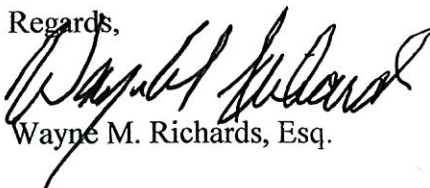
On November 15, 2016, the City responded to above letter.

2. February 1, 2017 written notice renewing request for consent to transfer lease. This was hand delivered and received on same day (Feb 1, 2017) as evidenced by City's date stamp of Feb 1, 2017, in lower right corner of letter. (Composite Ex. "B")

On March 1, 2017 the City Council considered our request and on March 3, 2017, the City Manager requested an additional 30 days following the March 1, 2017 Council meeting in which no final action was taken.

Clearly the City has had actual notice, however this notice and cover letter is being provided by overnight courier company. We reserve all rights under our prior notice, and in follow-up to our prior discussions, we still expect that the City to act on or before March 27, 2017.

Regards,



Wayne M. Richards, Esq.

CUSTOMER USE ONLY

FROM: (PLEASE PRINT) PHONE ()

Law Office of
Wynne M. Richards
7680 Woodcreek Drive
West Palm Beach, FL 33412

PAYMENT BY ACCOUNT (if applicable)
USPS Corporate Acct. No. Federal Agency Acct. No. or Postal Service™ Acct. No.

DELIVERY OPTIONS (Customer Use Only)
☒ **SIGNATURE REQUIRED** Note: The mailer must check the "Signature Required" box if the mailer: 1) Requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.
Delivery Options
☐ No Saturday Delivery (delivered next business day)
☐ Sunday/Holiday Delivery Required (additional fee, where available*)
☐ 10:30 AM Delivery Required (additional fee, where available*)
*Refer to USPS.com or local Post Office for availability.

TO: (PLEASE PRINT) PHONE ()

Danny Jones
Interim City Manager
City of West Palm Beach, FL
600 West Palm Beach Blvd.
West Palm Beach, FL 33410

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**LAW OFFICE OF
WAYNE M. RICHARDS, P.A.**

7681 WOODSMUIR DRIVE
WEST PALM BEACH
FLORIDA 33412
TEL (561) 596-5878
FAX (561) 360-3134
wayne@wrichardslaw.com

October 12, 2016

Danny Jones
Interim City Manager
City of Riviera Beach, Florida
600 West Blue Heron Blvd.
Riviera Beach, FL 33404

cc: City Attorney Andrew DeGraffendreidt

Subject: Request to obtain Landlord's consent and Estoppel Certificate re Ocean Mall transfer

Dear Messrs. Jones and DeGraffendreidt

As you may be aware, our firm has the pleasure of representing GSF, Florida Retail, LLC., the holder of the Ground leases ("lessee") of the Ocean Mall. The purpose of this letter is to request the City's consent to GSF's transfer of its interest in the lease. Article 10 of Land Lease from the City of Riviera Beach ("lessor") and the subsequent Amendments thereto provide for the assignment and subletting of Lessee's interest in the lease and provide in part:

"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."

The contract purchaser, RH 2401 Ocean, LLC., has extensive expertise in the successful operation of retail establishments and malls. They are turn around specialists with expertise in improving and leasing up retail centers RH 2401 Ocean is a joint venture of two well known, and

well regarded, South Florida commercial real estate operators; Duncan Hillsley and PEBB Capital (different than PEBB Enterprises). Both of these ventures has extensive operational experience in the Retail and Multi-family asset classes.

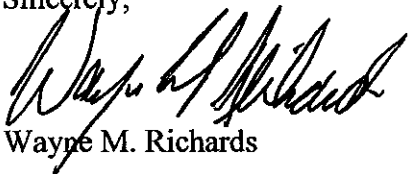
PEBB Capital owns or has owned 22 retail shopping centers ranging from a free-standing Starbucks in New Port Richey to a 210,000 square foot power center situated on 22 acres. Six (6) of these retail properties are between 51,000 and 93,000 square feet in size.

A currently active asset owned by Duncan Hillsley & PEBB Capital is the Downtown Dadeland retail center located across from the Dadeland Mall in Miami. This is a 127,635 square foot property that was under-leased and under-performing as it was a legacy asset from the economic downturn and bank owned. Duncan & PEBB have increased occupancy from to . They have driven occupancy and financial performance through community involvement and events. For example, there are regular public events that are organized and sponsored by the ownership. These events include outdoor movie night on a large blow-up screen, farmer's markets and music concerts. They believe that Ocean Mall and the City of Riviera Beach will benefit greatly by and through this type of event planning.,

Please accept this letter as a formal request on behalf of GSF Florida Retail, LLC., to the City of Riviera Beach for the City's written consent to the transfer of its leasehold interest in the Ocean Mall to RH 2401 Ocean, LLC. I have attached a "Landlord's Consent and Estoppel Form that needs to be completed consistent with GSF's lease.

Time is of the essence, as always I thank you for your time and assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne M. Richards", is written over a printed name.

Wayne M. Richards

Attachments: Landlord's Consent and Estoppel Letter

**LAW OFFICE OF
WAYNE M. RICHARDS, P.A.**

7681 WOODSMUIR DRIVE
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February 1, 2017

Danny Jones
Interim City Manager
City of Riviera Beach, Florida
600 West Blue Heron Blvd.
Riviera Beach, FL 33404

cc: City Attorney Andrew DeGraffendreidt

Subject: Request to obtain Landlord's consent and Estoppel Certificate re Ocean Mall transfer

Dear Messrs. Jones and DeGraffendreidt

The purpose of this letter is to renew my request on behalf of GSF Florida, LLC, for the City of Riviera Beach's consent to transfer its leasehold interest in the Ocean Mall to RH2401, LLC.

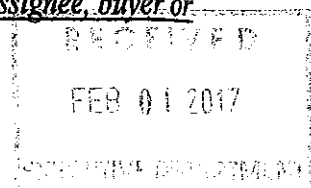
Almost four (4) months ago, specifically on October 12, 2016, I hand delivered a request for the City's consent for GSF's transfer of their leasehold interest in the Ocean Mall to RH2401, LLC, a great company based in Palm Beach County with extensive experience in turning around underperforming retail malls such as the Ocean Mall. On November 15, 2016, the City Manager's Office responded in writing wherein a request for a "sixty (60) day period was made to allow the City time to properly review and make recommendations to The City Council. Further, a potential date for this recommendation was offered as early as the second City Council meeting in January 2017".

I am very pleased that following numerous meetings with all parties involved the Interim City Manager was able to say with certainty they were comfortable with RH2401, LLC's track record.

As you are aware, the lease between the City and GSF provides in part:

"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

EXHIBIT B

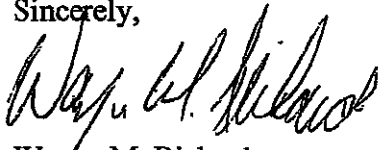


transferee (either personally or in the case of an entity, either the entity or any of its principals, members or shareholders) has been adverse to the City, and (ii) if the City has not responded to the Tenant's request for such consent within thirty (30) days of receipt of such request (sent by overnight 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. "

Thirty days from now would be Friday, February 3, 2017, and accordingly a response would be due by that date. I will forward to your office shortly an administrative consent and estoppel form that is customarily completed with such transactions.

I thank you for your time and assistance in this matter.

Sincerely,



Wayne M. Richards



Express

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7681 WOODSMUIR DRIVE
WEST PALM BEACH, FL 33412
UNITED STATES US

TO MR. DEGRAFFENREIDT
CITY ATTORNEY
600 WEST BLUE HERON BLVD

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RIVIERA BEACH FL 33404
(407) 325-4931
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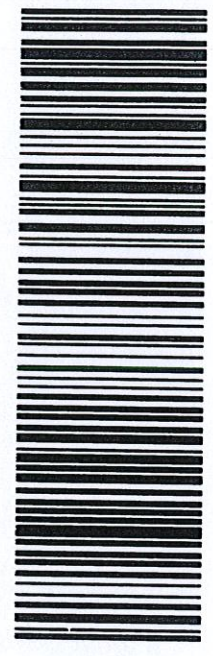


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City of Riviera Beach, Florida

**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 & Shrewsberry 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**

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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.

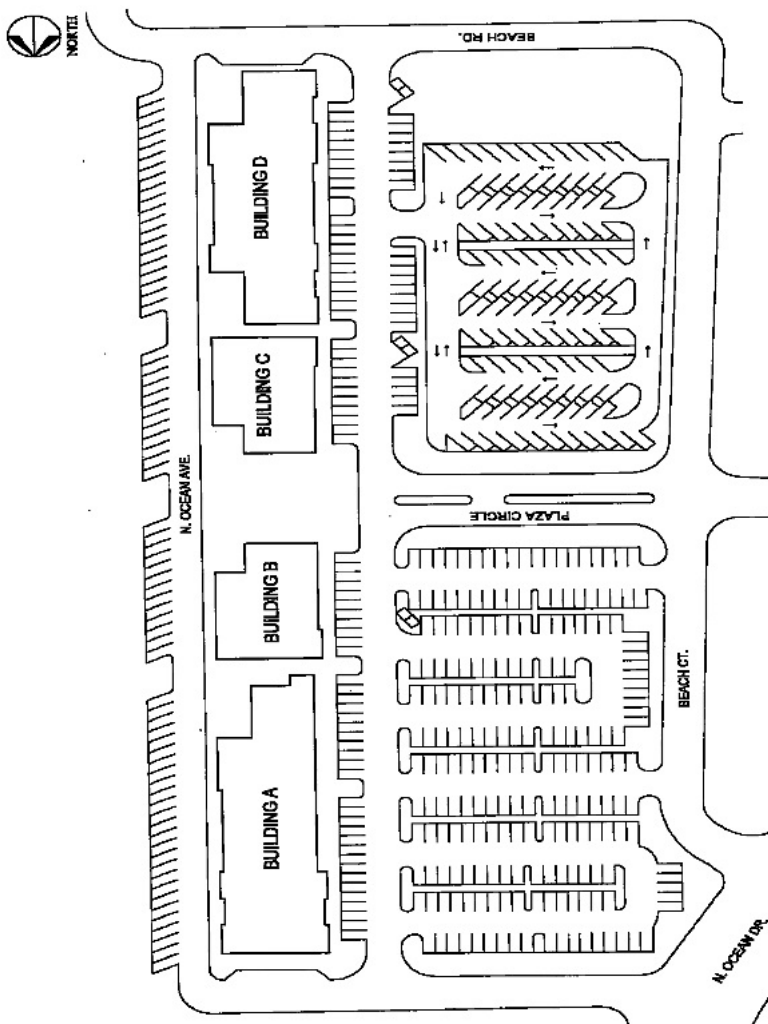
- Option 4 – The City takes no action on the current request by GSF Florida Retail, LLC to transfer the Amended Lease to RH2401 Ocean, LLC.

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	TJAC Singer Island, LLC offers to buy lease from GSF for \$7,575,000. Transaction is never completed.		
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	Request to Transfer Lease to RH 2401 Ocean, LLC 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.)	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	Proposed Fifth Amendment to Lease 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.		
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: (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.

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 buy 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 if, 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 $00^{\circ}46'50''$ WEST, A DISTANCE OF 923.92 FEET; THENCE CONTINUE SOUTH $90^{\circ}00'00''$ EAST, A DISTANCE OF 50.46 FEET; THENCE CONTINUE SOUTH $00^{\circ}00'00''$ 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 $90^{\circ}00'00''$ 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 $02^{\circ}36'30''$ 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 $85^{\circ}00'00''$ 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 $02^{\circ}36'30''$ 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 $87^{\circ}23'30''$ 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 $02^{\circ}36'30''$ 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 $66^{\circ}54'51''$ WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID WEST RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF $139^{\circ}02'41''$, 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 $33^{\circ}13'55''$ EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF $20^{\circ}39'46''$, 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 $89^{\circ}58'50''$ 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 $90^{\circ}00'00''$ 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 $02^{\circ}36'30''$ 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 $02^{\circ}36'30''$ EAST, A DISTANCE OF 48.13 FEET TO THE NORTHEAST CORNER OF SAID LOT 415; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, NORTH $00^{\circ}46'50''$ 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 $87^{\circ}23'30''$ 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 $02^{\circ}36'30''$ EAST, A DISTANCE OF 33.56 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, SOUTH $90^{\circ}00'00''$ EAST, A DISTANCE OF 230.17 FEET; THENCE SOUTH $00^{\circ}46'50''$ WEST, A DISTANCE OF 365.03 FEET; THENCE NORTH $90^{\circ}00'00''$ 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:

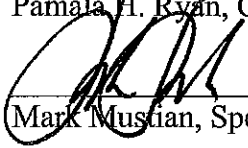
By: _____
Michael D. Brown, Mayor

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.

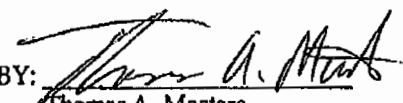
Section 5. In all other respects, the remainder of the Lease shall remain in full force and effect and unmodified, and the parties agree to perform all duties and obligations as set forth therein. In the event there is a conflict between the Lease and this Amendment, the Amendment shall control. This 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

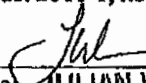
IN WITNESS WHEREOF, the Parties unto this Amendment have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH
(LANDLORD)

BY: 
Thomas A. Masters
Mayor

TENANT

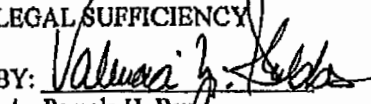
OSF FLORIDA RETAIL LLC, a
Delaware limited liability company
By: ~~OSF Trust 2011-1, its manager.~~

BY: 
Name: JULIAN WELDON
Title: SECRETARY

ATTEST:

BY: _____
Carrie E. Ward
City Clerk, MMC

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
Pamela 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 cecoplums, 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: _____

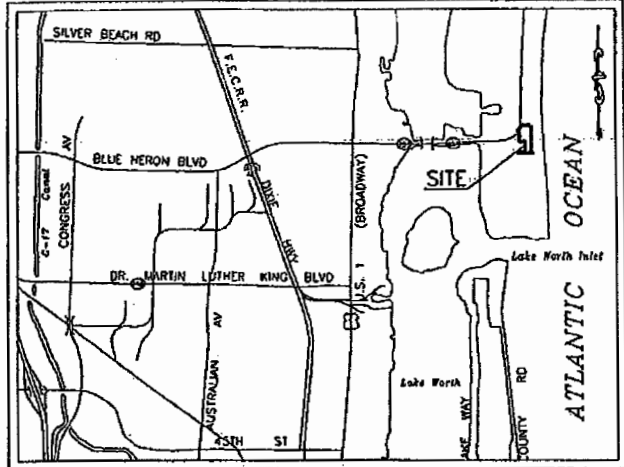
Print Name: _____

Print Name: _____

EXHIBIT A

Legal Description of the Leased Premises

[attached]



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 RIVIERA 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 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 923.71 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 RIVIERA 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 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°58'36" 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 RIVIERA 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
PROFESSIONAL SURVEYOR AND MAPPER NO. LS 4315
STATE OF FLORIDA

11-22-13



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 LIST	OF 2

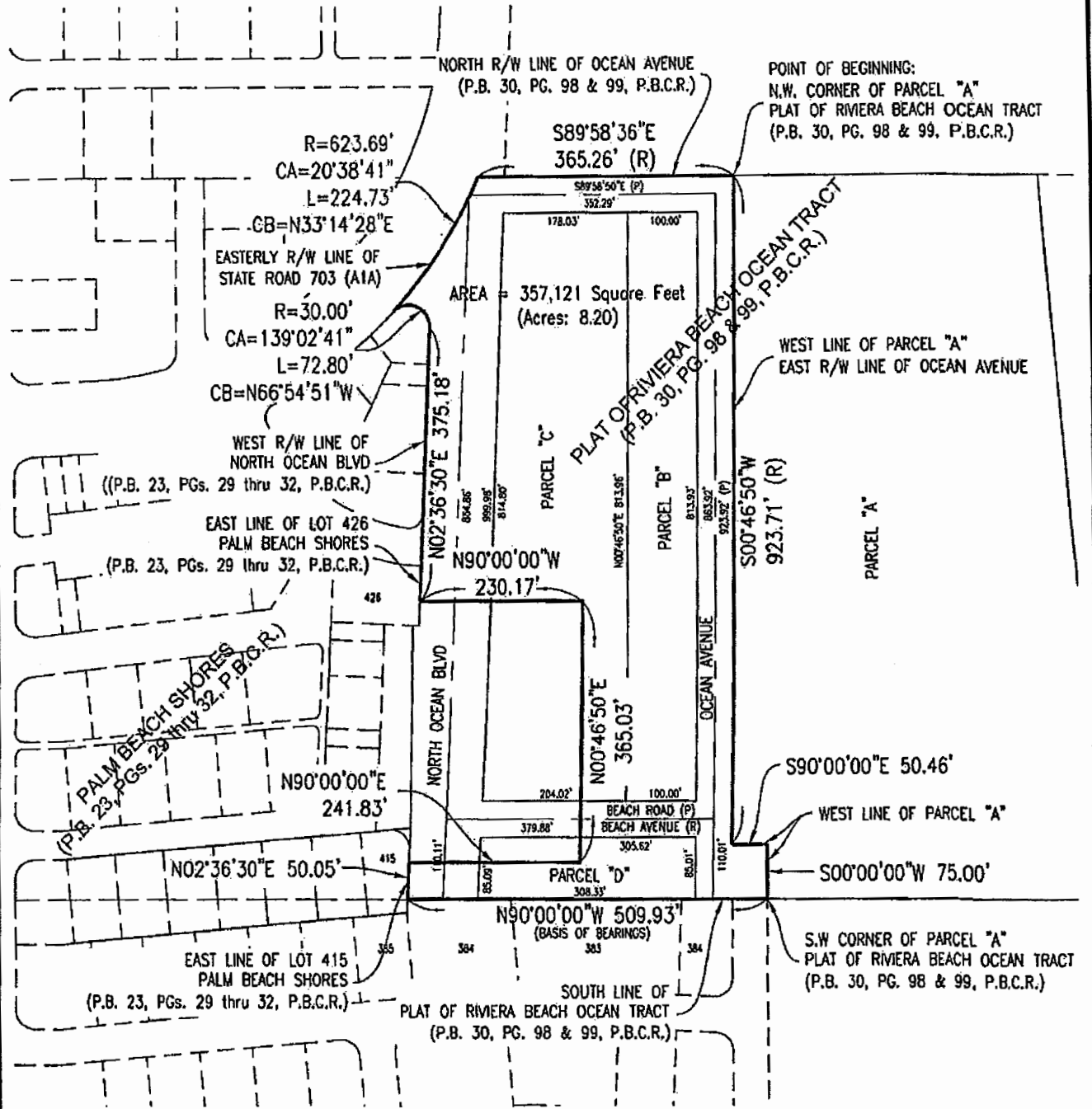
Exhibit A

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
360 Village Boulevard, Suite 340 West Palm Beach, Florida 33409
Phone: 561.684.6161 Fax: 561.684.6360
Certificate of Authorization 8791

SKETCH AND LEGAL DESCRIPTION
OCEAN MALL
PALM BEACH COUNTY, FLORIDA

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

CITY OF RIVIERA BEACH

BY: _____
Thomas A. Masters
Mayor

TENANT

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

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

Print Name: _____

Print Name: _____

WITNESSES FOR TENANT

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.: _____

PAGE -2-

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 Rent herein reserved shall be absolutely net to Landlord so that this Lease shall yield net to Landlord the ~~Percentage~~ 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

CITY OF RIVIERA BEACH

BY: _____
Thomas A. Masters
Mayor

TENANT

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company

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

Print Name: _____

Print Name: _____

WITNESSES FOR TENANT

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



WALKER
PARKING CONSULTANTS



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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.

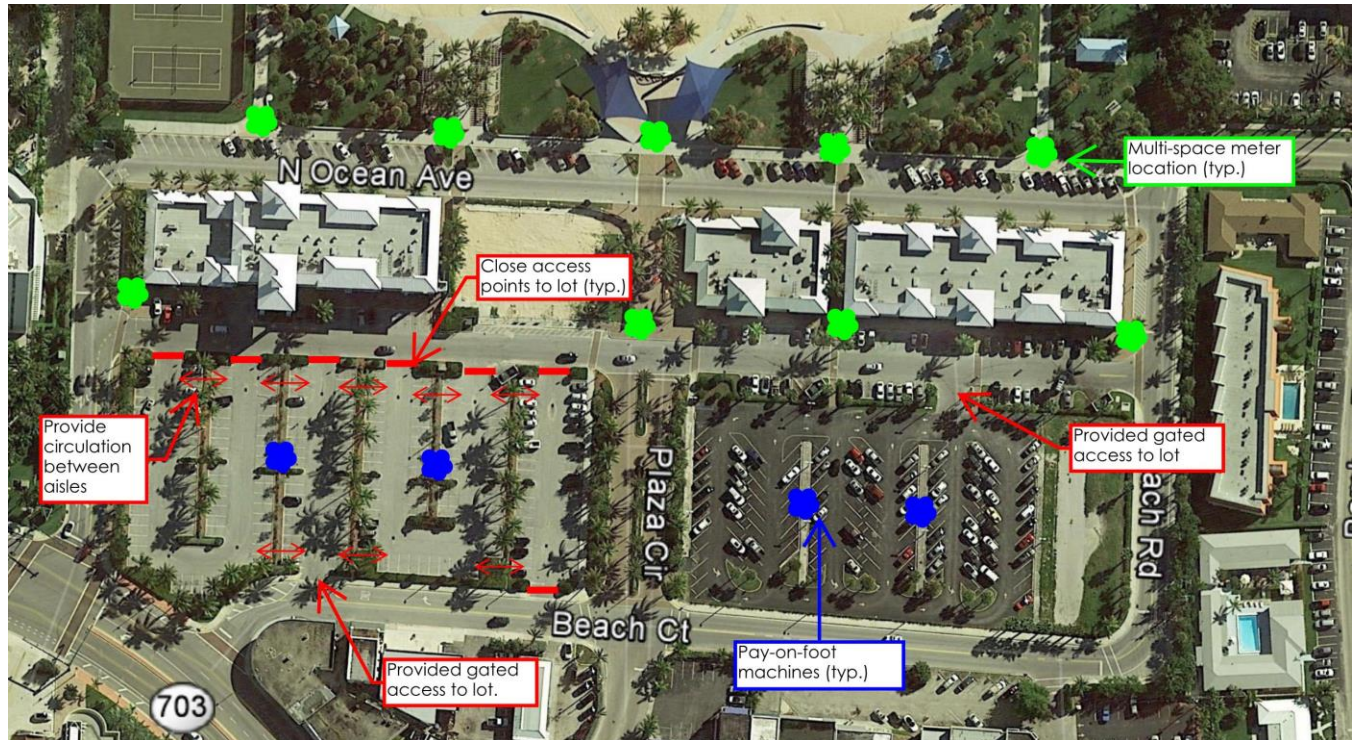
Walker understands that paid parking could potentially discourage patrons from shopping and dining at the Ocean Mall property. Ocean Mall merchants will have the opportunity to offer validated parking to their customers. The validation can be for a specific time period, or for all or a portion of the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



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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



WALKER
PARKING CONSULTANTS

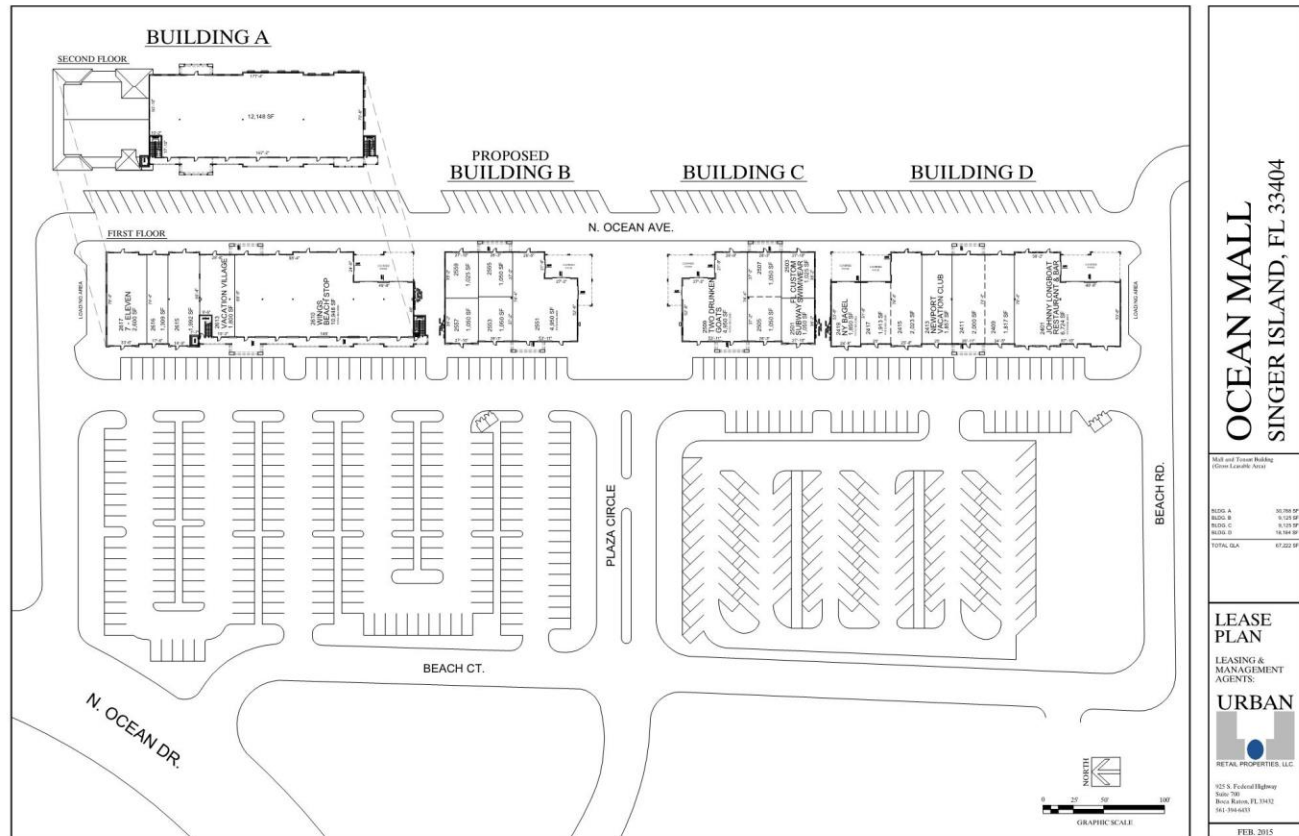
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PARKING DEMAND ANALYSIS

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.



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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.



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PARKING ACCESS AND REVENUE CONTROL SYSTEM STRATEGY

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

1. Ocean Mall parking lot
 - Charge for parking using a graduated hourly rate.
 - Utilize either a gated or un-gated multi-space meter system depending on the preference of the CRA and its constituents.
 - 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
 - Charge for parking on an hourly basis;
 - Utilize multi-space parking meters to collect parking revenue.
3. Ocean Mall West parking lot
 - 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 be 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 whether 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.

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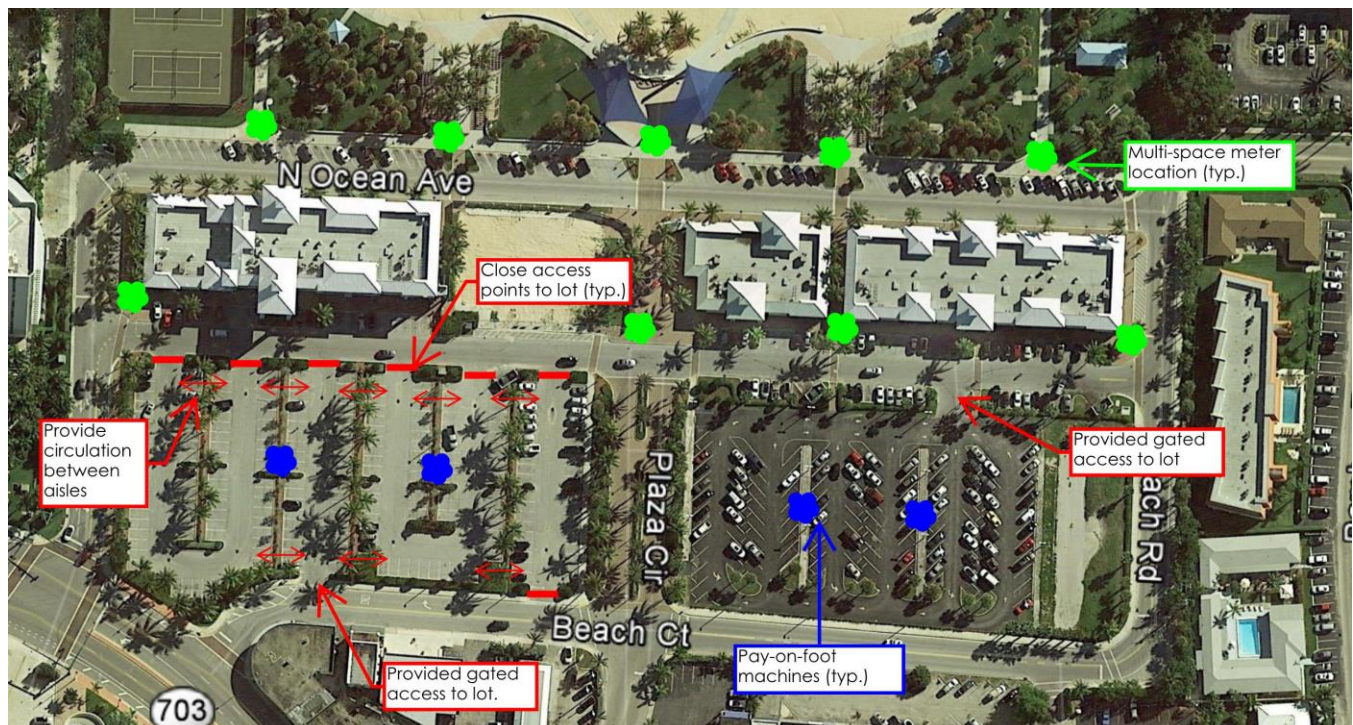
OCEAN MALL WEST SURFACE PARKING LOT

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.



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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 Rivera 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.



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PRELIMINARY OPERATING STATEMENT

A preliminary operating statement for the parking areas at Ocean Mall was developed 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.



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- 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 flowing 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.



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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.



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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%		

**OCEAN MALL
RIVIERA BEACH, FL**

Summary Operating Budget - 70% Occupancy Option with \$7 Million in Debt

Operating Proforma					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15				
<i>Rent Structure:</i>					Units	Sq Foot	Rate	Actual	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Market Rate - Affordable																							
Building "A"					6	30,733	\$24.87	\$764,330	\$764,330	\$787,260	\$810,877	\$835,204	\$860,260	\$886,068	\$912,650	\$940,029	\$968,230	\$997,277	\$1,027,195	\$1,058,011	\$1,089,751	\$1,122,444	\$1,156,117
Building "B"					3	13,969	\$24.87	\$347,409	\$347,409	\$357,831	\$368,566	\$379,623	\$391,012	\$402,742	\$414,825	\$427,269	\$440,087	\$453,290	\$466,889	\$480,895	\$495,322	\$510,182	\$525,487
Building "C"					5	9,125	\$24.87	\$226,939	\$226,939	\$233,747	\$240,759	\$247,982	\$255,422	\$263,084	\$270,977	\$279,106	\$287,479	\$296,104	\$304,987	\$314,136	\$323,560	\$333,267	\$343,265
Building "D"					5	18,202	\$24.87	\$452,684	\$452,684	\$466,264	\$480,252	\$494,660	\$509,500	\$524,785	\$540,528	\$556,744	\$573,446	\$590,650	\$608,369	\$626,620	\$645,419	\$664,781	\$684,725
Totals					19				\$1,791,361	\$1,845,102	\$1,900,455	\$1,957,469	\$2,016,193	\$2,076,679	\$2,138,979	\$2,203,148	\$2,269,243	\$2,337,320	\$2,407,440	\$2,479,663	\$2,554,053	\$2,630,674	\$2,709,595
Other Income									12,552	\$12,929	\$13,316	\$13,716	\$14,127	\$14,551	\$14,988	\$15,437	\$15,900	\$16,378	\$16,869	\$17,375	\$17,896	\$18,433	18,986
Total Revenues									1,803,913	1,858,031	1,913,772	1,971,185	2,030,320	2,091,230	2,153,967	2,218,586	2,285,143	2,353,698	2,424,309	2,497,038	2,571,949	2,649,107	2,728,581
Less: General Vacancy									(537,408)	(553,531)	(570,137)	(587,241)	(604,858)	(623,004)	(641,694)	(660,945)	(680,773)	(701,196)	(722,232)	(743,899)	(766,216)	(789,202)	(812,878)
									-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%	-30.00%
Net Revenues									1,266,505	1,304,500	1,343,635	1,383,944	1,425,462	1,468,226	1,512,273	1,557,641	1,604,370	1,652,502	1,702,077	1,753,139	1,805,733	1,859,905	1,915,702
Expenses						Monthly / Unit	Annual / Unit																
Operating Expenses						\$2,357	\$28,285		537,408	553,531	570,137	587,241	604,858	623,004	641,694	660,945	680,773	701,196	722,232	743,899	766,216	789,202	812,878
Insurance						\$553	\$6,632		126,000	129,780	133,673	137,684	141,814	146,069	150,451	154,964	159,613	164,401	169,333	174,413	179,646	185,035	190,586
Taxes (Non Ad Valorem)						\$1,228	\$14,737		280,000	285,600	291,312	300,051	309,053	318,324	327,874	337,710	347,842	358,277	369,025	380,096	391,499	403,244	415,341
Replacement reserve						\$921	\$11,053		210,000	216,300	222,789	229,473	236,357	243,448	250,751	258,274	266,022	274,002	282,222	290,689	299,410	308,392	317,644
Total Operating Expense						\$5,059	\$60,706		1,153,408	1,185,211	1,217,911	1,254,448	1,292,082	1,330,844	1,370,769	1,411,893	1,454,249	1,497,877	1,542,813	1,589,098	1,636,770	1,685,874	1,736,450
								per unit	\$60,706	\$62,380	\$64,101	\$66,024	\$68,004	\$70,044	\$72,146	\$74,310	\$76,539	\$78,836	\$81,201	\$83,637	\$86,146	\$88,730	\$91,392
Net Operating Income									113,096	119,289	125,724	129,496	133,381	137,382	141,504	145,749	150,121	154,625	159,263	164,041	168,963	174,032	179,252
Debt Service 1st mortgage					\$7,000,000		35	6.00%	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959
DSC									0.24	0.25	0.26	0.27	0.28	0.29	0.30	0.30	0.31	0.32	0.33	0.34	0.35	0.36	0.37
Net cash flow									(365,863)	(359,670)	(353,235)	(349,464)	(345,579)	(341,577)	(337,456)	(333,211)	(328,838)	(324,335)	(319,696)	(314,918)	(309,997)	(304,928)	(299,707)
Forecast Assumptions																							
Annual Rent increase							3.00%														Cash flow	(4,988,472)	
Annual Operating Expense Growth							3.00%																
Vacancy Loss Rate							30.00%																
Annual Reserve increase							3.00%																

OCEAN MALL
RIVIERA BEACH, FL

Summary Operating Budget - 80% Occupancy Option with \$7 Million in Debt

Operating Proforma				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
<i>Rent Structure:</i>	Units	Sq Foot	Rate	Actual	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Market Rate - Affordable																			
Building "A"	6	30,733	\$24.87	\$764,330	\$764,330	\$787,260	\$810,877	\$835,204	\$860,260	\$886,068	\$912,650	\$940,029	\$968,230	\$997,277	\$1,027,195	\$1,058,011	\$1,089,751	\$1,122,444	\$1,156,117
Building "B"	3	13,969	\$24.87	\$347,409	\$347,409	\$357,831	\$368,566	\$379,623	\$391,012	\$402,742	\$414,825	\$427,269	\$440,087	\$453,290	\$466,889	\$480,895	\$495,322	\$510,182	\$525,487
Building "C"	5	9,125	\$24.87	\$226,939	\$226,939	\$233,747	\$240,759	\$247,982	\$255,422	\$263,084	\$270,977	\$279,106	\$287,479	\$296,104	\$304,987	\$314,136	\$323,560	\$333,267	\$343,265
Building "D"	5	18,202	\$24.87	\$452,684	\$452,684	\$466,264	\$480,252	\$494,660	\$509,500	\$524,785	\$540,528	\$556,744	\$573,446	\$590,650	\$608,369	\$626,620	\$645,419	\$664,781	\$684,725
Totals	19				\$1,791,361	\$1,845,102	\$1,900,455	\$1,957,469	\$2,016,193	\$2,076,679	\$2,138,979	\$2,203,148	\$2,269,243	\$2,337,320	\$2,407,440	\$2,479,663	\$2,554,053	\$2,630,674	\$2,709,595
Other Income					12,552	\$12,929	\$13,316	\$13,716	\$14,127	\$14,551	\$14,988	\$15,437	\$15,900	\$16,378	\$16,869	\$17,375	\$17,896	\$18,433	18,986
Total Revenues					1,803,913	1,858,031	1,913,772	1,971,185	2,030,320	2,091,230	2,153,967	2,218,586	2,285,143	2,353,698	2,424,309	2,497,038	2,571,949	2,649,107	2,728,581
Less: General Vacancy					(358,272)	(369,020)	(380,091)	(391,494)	(403,239)	(415,336)	(427,796)	(440,630)	(453,849)	(467,464)	(481,488)	(495,933)	(510,811)	(526,135)	(541,919)
					-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%	-20.00%
Net Revenues					1,445,641	1,489,010	1,533,681	1,579,691	1,627,082	1,675,894	1,726,171	1,777,956	1,831,295	1,886,234	1,942,821	2,001,105	2,061,138	2,122,973	2,186,662
Expenses		Monthly / Unit	Annual / Unit																
Operating Expenses		\$2,357	\$28,285		537,408	553,531	570,137	587,241	604,858	623,004	641,694	660,945	680,773	701,196	722,232	743,899	766,216	789,202	812,878
Insurance		\$553	\$6,632		126,000	129,780	133,673	137,684	141,814	146,069	150,451	154,964	159,613	164,401	169,333	174,413	179,646	185,035	190,586
Taxes (Non Ad Valorem)		\$1,228	\$14,737		280,000	285,600	291,312	300,051	309,053	318,324	327,874	337,710	347,842	358,277	369,025	380,096	391,499	403,244	415,341
Replacement reserve		\$921	\$11,053		210,000	216,300	222,789	229,473	236,357	243,448	250,751	258,274	266,022	274,002	282,222	290,689	299,410	308,392	317,644
Total Operating Expense		\$5,059	\$60,706		1,153,408	1,185,211	1,217,911	1,254,448	1,292,082	1,330,844	1,370,769	1,411,893	1,454,249	1,497,877	1,542,813	1,589,098	1,636,770	1,685,874	1,736,450
				per unit	\$60,706	\$62,380	\$64,101	\$66,024	\$68,004	\$70,044	\$72,146	\$74,310	\$76,539	\$78,836	\$81,201	\$83,637	\$86,146	\$88,730	\$91,392
Net Operating Income					292,233	303,800	315,770	325,243	335,000	345,050	355,401	366,063	377,045	388,357	400,007	412,008	424,368	437,099	450,212
Debt Service 1st mortgage	\$7,000,000		35	6.00%	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959
DSC					0.61	0.63	0.66	0.68	0.70	0.72	0.74	0.76	0.79	0.81	0.84	0.86	0.89	0.91	0.94
Net cash flow					(186,727)	(175,160)	(163,190)	(153,717)	(143,959)	(133,909)	(123,558)	(112,896)	(101,914)	(90,603)	(78,952)	(66,952)	(54,591)	(41,860)	(28,747)
Forecast Assumptions																		Cash flow	(1,656,735)
Annual Rent increase				3.00%															
Annual Operating Expense Growth				3.00%															
Vacancy Loss Rate				20.00%															
Annual Reserve increase				3.00%															

**OCEAN MALL
RIVIERA BEACH, FL**

Summary Operating Budget - 90% Occupancy Option with \$7 Million in Debt

Operating Proforma					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
<i>Rent Structure:</i>	Units	Sq Foot	Rate	Actual	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	
Market Rate - Affordable																				
Building "A"	6	30,733	\$24.87	\$764,330	\$764,330	\$787,260	\$810,877	\$835,204	\$860,260	\$886,068	\$912,650	\$940,029	\$968,230	\$997,277	\$1,027,195	\$1,058,011	\$1,089,751	\$1,122,444	\$1,156,117	
Building "B"	3	13,969	\$24.87	\$347,409	\$347,409	\$357,831	\$368,566	\$379,623	\$391,012	\$402,742	\$414,825	\$427,269	\$440,087	\$453,290	\$466,889	\$480,895	\$495,322	\$510,182	\$525,487	
Building "C"	5	9,125	\$24.87	\$226,939	\$226,939	\$233,747	\$240,759	\$247,982	\$255,422	\$263,084	\$270,977	\$279,106	\$287,479	\$296,104	\$304,987	\$314,136	\$323,560	\$333,267	\$343,265	
Building "D"	5	18,202	\$24.87	\$452,684	\$452,684	\$466,264	\$480,252	\$494,660	\$509,500	\$524,785	\$540,528	\$556,744	\$573,446	\$590,650	\$608,369	\$626,620	\$645,419	\$664,781	\$684,725	
Totals					19															
					\$1,791,361	\$1,845,102	\$1,900,455	\$1,957,469	\$2,016,193	\$2,076,679	\$2,138,979	\$2,203,148	\$2,269,243	\$2,337,320	\$2,407,440	\$2,479,663	\$2,554,053	\$2,630,674	\$2,709,595	
Other Income					12,552	\$12,929	\$13,316	\$13,716	\$14,127	\$14,551	\$14,988	\$15,437	\$15,900	\$16,378	\$16,869	\$17,375	\$17,896	\$18,433	18,986	
Total Revenues					1,803,913	1,858,031	1,913,772	1,971,185	2,030,320	2,091,230	2,153,967	2,218,586	2,285,143	2,353,698	2,424,309	2,497,038	2,571,949	2,649,107	2,728,581	
Less: General Vacancy					(179,136)	(184,510)	(190,046)	(195,747)	(201,619)	(207,668)	(213,898)	(220,315)	(226,924)	(233,732)	(240,744)	(247,966)	(255,405)	(263,067)	(270,959)	
					-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	-10.00%	
Net Revenues					1,624,777	1,673,520	1,723,726	1,775,438	1,828,701	1,883,562	1,940,069	1,998,271	2,058,219	2,119,966	2,183,565	2,249,072	2,316,544	2,386,040	2,457,621	
Expenses		Monthly / Unit	Annual / Unit																	
Operating Expenses		\$2,357	\$28,285		537,408	553,531	570,137	587,241	604,858	623,004	641,694	660,945	680,773	701,196	722,232	743,899	766,216	789,202	812,878	
Insurance		\$553	\$6,632		126,000	129,780	133,673	137,684	141,814	146,069	150,451	154,964	159,613	164,401	169,333	174,413	179,646	185,035	190,586	
Taxes (Non Ad Valorem)		\$1,228	\$14,737		280,000	285,600	291,312	300,051	309,053	318,324	327,874	337,710	347,842	358,277	369,025	380,096	391,499	403,244	415,341	
Replacement reserve		\$921	\$11,053		210,000	216,300	222,789	229,473	236,357	243,448	250,751	258,274	266,022	274,002	282,222	290,689	299,410	308,392	317,644	
Total Operating Expense		\$5,059	\$60,706		1,153,408	1,185,211	1,217,911	1,254,448	1,292,082	1,330,844	1,370,769	1,411,893	1,454,249	1,497,877	1,542,813	1,589,098	1,636,770	1,685,874	1,736,450	
					\$60,706	\$62,380	\$64,101	\$66,024	\$68,004	\$70,044	\$72,146	\$74,310	\$76,539	\$78,836	\$81,201	\$83,637	\$86,146	\$88,730	\$91,392	
Net Operating Income					471,369	488,310	505,815	520,990	536,619	552,718	569,299	586,378	603,970	622,089	640,751	659,974	679,773	700,166	721,171	
Debt Service 1st mortgage					\$7,000,000		35	6.00%	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959	478,959
DSC					0.98	1.02	1.06	1.09	1.12	1.15	1.19	1.22	1.26	1.30	1.34	1.38	1.42	1.46	1.51	

Net cash flow	(7,591)	9,350	26,856	42,030	57,660	73,758	90,340	107,419	125,010	143,129	161,792	181,015	200,814	221,207	242,212
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Forecast Assumptions

Annual Rent increase	3.00%
Annual Operating Expense Growth	3.00%
Vacancy Loss Rate	10.00%
Annual Reserve increase	3.00%



**CITY OF RIVIERA BEACH
FINANCE AND ADMINISTRATIVE SERVICES**

FINANCE DEPARTMENT

INTER-DEPARTMENTAL COMMUNICATION

DATE: MARCH 27, 2017

TO: JONATHAN E. EVANS, CITY MANAGER

FROM: RANDY M. SHERMAN, DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES

SUBJECT: OCEAN MALL AGREEMENT

As of today, the total amount of principal due the City from the CRA for the Ocean Mall loan is \$10,194,621. Since 2009, the CRA has paid \$1,331,021 in interest. No principal payments have been made.

On October 21, 2009, the City and the CRA entered into a loan agreement where the City agreed to loan the CRA an amount not to exceed \$10,400,000 from the City's Insurance Fund. Restrictions were placed on the funds limiting their use to the construction and infrastructure improvements to the Ocean Mall and Municipal Beach properties as agreed to by the City, the CRA, and the Ocean Mall Redevelopment, LLC (OMRD). The CRA in turn agreed to provide a grant up to \$10,400,000 to the developer (OMRD) to make required infrastructure, parking and beach improvements in support of the project. On behalf of the CRA, the City advanced the loan proceeds to OMRD based on draw requests from OMRD for construction of the improvements based on inspection and approval of the requests by the City. The Ocean Mall and the Municipal Beach are owned by the City of Riviera Beach. The Ocean Mall project was catalytic in the development of other commercial properties in the area, including the Ritz Carlton, the largest tax increment revenue generating property in the CRA boundaries.

The Loan Agreement entered into in 2009 provided for the following terms:

1. 4.75% interest
2. Level payments of \$985,100 payable on March 31st of each year commencing on March 31, 2010

In April 2011, the First Modification to the Loan Agreement amended the terms to:

1. Reduction of the interest rate to 2% commencing July 1, 2012 until June 30, 2016
2. Amortize the debt over a 15 year period, payable on July 1st
3. A balloon payment on July 1, 2026
4. Level payments of \$985,100 payable on July 31st of each year commencing on July 31, 2017



In March 2016, the Second Modification of the Loan Agreement provided the following changes to the loan terms:

1. Defers all payments until October 1, 2023
2. Amortizes debt over a 15-year period
3. Provides for level payments of \$679,641.40 payable October 1st of each year commencing October 1, 2023

The City's Auditor and Financial Advisor reviewed the term changes and provided written comments. A summary of each response is below.

Auditor – Both the City and the CRA are required to disclose the loan modification as Troubled Debt in their respective audited financial statements. The CRA Executive Director has outlined the pressures being placed on the CRA's ability to meet all obligations of the CRA as currently constituted. The loan modification has been requested by the CRA and is being presented for consideration to provide cash flow relief to the CRA. Under Governmental Accounting standards, this meets the definition of Troubled Debt.

Financial Advisor – Credit or Rating Agency considerations are two part; quantitative and qualitative. Whereas both the City and CRA are governed by the same individuals, the Financial Advisor is more concerned about the quantitative measures since it is the governing bodies that have made the decisions that have placed the loan into a Troubled Debt status.

Entering into this Agreement deferred the full repayment of the Loan until 2036 and cost the City \$4,373,799 in lost interest.



OFFICE OF
CITY MANAGER

CITY OF RIVIERA BEACH

600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404
(561) 845-4010 FAX (561) 840-3353

March 24, 2017
Law Office of Wayne Richards, P.A.
7681 Woodsmuir Dr.
West Palm Beach, Florida 33412

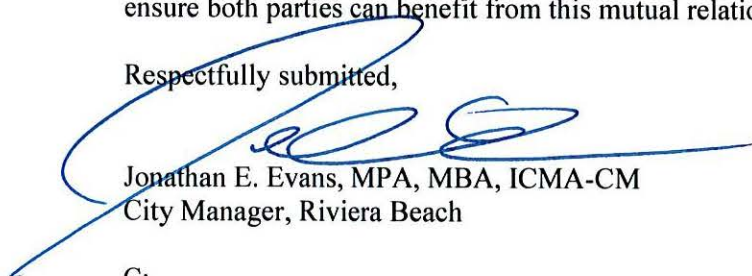
RE: Ocean Mall Lease Transfer – Riviera Beach, FL

Dear Attorney Richards,

This letter serves as an official notification that the City of Riviera Beach is completing its due diligence activities concerning option(s) available to the city relating to the contractual relationship between GSF and the city on the Ocean Mall property. In the coming days, staff will meet with the City Council to brief them on the contractual relationship between both parties; these meetings will occur next week, and the city desires to place this item on the agenda for the regular City Council meeting on April 5, 2017. Furthermore, staff members have secured outside legal counsel, as well as the Palm Beach Consulting Group, LLC, to assist in providing historical information for the edification of the City Council and the general public. I would strongly encourage your perspective assignees to provide a thorough yet succinct presentation outlining their business acumen, financial strength, and their thoughts and visions not only for this property but for Riviera Beach. Our City Council would like to see the Ocean Mall become a place of multicounty attraction for both locals and tourist.

We received your notifications, and we will coordinate the appropriate for opportunity for your clients to present their case before the City Council. Should you have any questions, comments, or concerns, please contact my office. Any audiovisual needs must be provided at least three business days prior to your presentation. Again, thank you for your polite conversation and more importantly, for your patience as we ensure both parties can benefit from this mutual relationship. We are open for business.

Respectfully submitted,



Jonathan E. Evans, MPA, MBA, ICMA-CM
City Manager, Riviera Beach

C:
Hon. Mayor Masters
Hon. Chairman Davis
Hon. City Council members
City Attorney, Andrew Degraffenreidt
Attorney, Richard Jarolem
President/Managing Member, Arnold Broussard
Paul Skyers, Consultant



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CITY MANAGER

CITY OF RIVIERA BEACH

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Sent via FedEx/Overnight Courier

March 3, 2017

Wayne M. Richards, Esq.
Law Office of Wayne M. Richards, P.A.
P.O. Box 8125
West Palm Beach, FL 33407

**RE: Request for Additional 30 Days for Board Consideration of Ocean Mall Lease
Transfer from GSF to RH2401 Ocean, LLC, and to be placed on April Agenda**

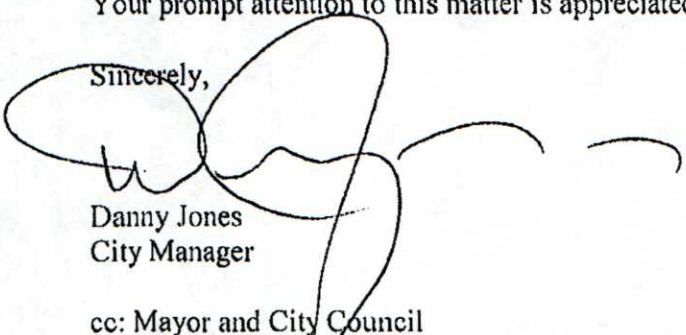
Dear Mr. Richards:

On March 1, 2017, the regular city council meeting agenda for the City of Riviera Beach included a resolution for City Council to approve your client, GSF's, transfer of the current lease for Ocean Mall to RH2401 Ocean, LLC.

Due to time constraints, the City Council did not fully address the item. We are requesting an additional thirty (30) days to review the item individually with each councilperson. We anticipate this item will come before the Board on the regular agenda scheduled for the second Wednesday in April.

Your prompt attention to this matter is appreciated.

Sincerely,



Danny Jones
City Manager

cc: Mayor and City Council
Andrew DeGraffenreidt, III, City Attorney

LB/kmr



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FL 33404
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Thu 3/02/2017

Actual delivery:

Fri 3/03/2017 11:47 am

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Delivered

Signature not required

RIVIERA BEACH, FL US

Travel History

Date/Time	Activity	Location
- 3/03/2017 - Friday		
11:47 am	Delivered	RIVIERA BEACH, FL
	Left at front door. Package delivered to recipient address - release authorized	
10:15 am	Delivery exception	RIVIERA BEACH, FL
	Incorrect address	
9:27 am	On FedEx vehicle for delivery	RIVIERA BEACH, FL
7:37 am	At local FedEx facility	RIVIERA BEACH, FL
- 3/02/2017 - Thursday		
8:48 pm	At destination sort facility	WEST PALM BEACH, FL
8:37 pm	Left FedEx origin facility	RIVIERA BEACH, FL
5:07 pm	Picked up	RIVIERA BEACH, FL
4:16 pm	Shipment information sent to FedEx	

Shipment Facts

Tracking number	785784057731	Service	FedEx Priority Overnight
Weight	0.5 lbs / 0.23 kgs	Delivered To	Residence
Total pieces	1	Total shipment weight	0.5 lbs / 0.23 kgs
Terms	Third Party	Packaging	FedEx Envelope
Special handling section	Deliver Weekday, Residential Delivery	Standard transit	3/03/2017 by 10:30 am

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November 15, 2016

Attorney Wayne M. Richards
Law Office of Wayne M. Richards
7681 Woodsmuir Drive
West Palm Beach, FL 33410

Dear Attorney Richards,

Please accept this letter as the City's response to GSF, Florida Retail, LLC's request to obtain the City's consent and Estoppel Certificate to transfer their leasehold interest in the Ocean Mall.

At this time it is unclear how the proposed transfer will affect the City's interest in this property. During our meeting of October 28, 2016, you made it imminently clear that the proposed transferee, RH 2401 Ocean LLC., proposed to renegotiate key terms of the current lease agreement, and, in particular, the acquisition and installation of the parking kiosks addressed in Amendment #4 of the agreement. This would likely require a proposed Fifth Amendment to the lease, which would include a formal easement deed relating to the use of the "Additional Parking Area" and other related matters.

Based upon the foregoing, it is requested that we mutually agree to a sixty (60) day period in order for the City's administrative staff to properly review and make recommendations to the City Council with respect to this matter. A potential date for this recommendation could be as early as the second City Council meeting in January 2017.

I look forward to meeting with you within the next two weeks to discuss this matter further.

Sincerely,



Danny D. Jones
Interim City Manager

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☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.47

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Sent To
Harvey Wayne M. Richards

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7681 Woodsmuir Dr

City, State, ZIP+4[®]
West Palm Beach, FL 33412

Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

=====

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Product Description	Sale Qty	Final Price
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Certified	1	\$3.30
(@@USPS Certified Mail #) (70162070000064659827)		
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Memorandum

To: Jonathan Evans
CC: Andrew DeGraffenreidt, III;
From: Richard Jarolem
Date: 4/11/2017
Re: Ocean Mall

It is my understanding that the matter before the Council tomorrow night is:

1. Whether or not the City approves the transfer of the Ocean Mall lease from GSF to RH2401 Ocean, LLC; and
2. Whether the City must execute a Lease Amendment correcting the legal description to conform to the parties understanding under the Fourth Lease Amendment.

In addition to the foregoing, I have received and reviewed the e-mail from Ms. White dated April 9, 2017 wherein she asserts (amongst other things) that the City may declare GSF in Breach of the Lease based upon a purported failure to perform under the COMMUNITY BENEFITS PARTNERSHIP AGREEMENT which is incorporated into The Development and Disposition Agreement (“DDA”) in Article 7 and as Exhibit “C” to the DDA.

I will address Ms. White’s arguments concerning the assertion of the capability of the City to declare GSF in Breach of the DDA and/or the Community Benefits Partnership Agreement.

Can GSF’s Lease be terminated based upon a breach of the DDA/Community Benefits Partnership Agreement? – NO- GSF cannot be held to be in breach of the DDA/Community Benefits Partnership Agreement and its Lease may not be terminated based upon any such allegation.

Putting it simply, GSF cannot be in breach of the DDA or the Community Benefits Partnership Agreement. Specifically, in connection with the First Lease Amendment the City and GSF Agreed that the DDA had expired and was terminated. This rendered any potential breach of the DDA null and void. A party cannot be in breach of something that no longer

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exists. I have attached a copy of the 1st Page of the First Lease Amendment showing the relevant language in the 8th WHEREAS clause as Exhibit "A".

Further supporting the notion that issue is null and void is the fact that the City issued two estoppel letters to GSF confirming that as of September 2013 and March 25, 2014 the "Tenant is not in default of any of the terms of the Lease". An estoppel letter is a document issued by the Landlord that is intended to be relied upon by the Tenant and/or a potential Lender to the Tenant and/or a potential purchaser of the Tenant's Leasehold interest. Thus, as of September 2013 and reaffirmed as of March 25, 2014 the City stated that the "Tenant was not in default of any of the terms of the Lease". (I have attached a copy of a memo referencing the September estoppel and the actual March 2014 Estoppel as composite Exhibit "B".)

Conclusion on asserting Breach- GSF is not in breach of the DDA and the City has affirmatively so stated no less than two times in subsequent estoppel letters.

Issue- 1 Can the City deny the approval of the Transfer of the Lease to RH 2401- Maybe, however the City's rejection or approval may be a nullity as the transfer may be deemed "approved" under the Language of the Lease.

Section 10(a) of the Lease provides that the Tenant must obtain the City's consent to transfer the Lease. The City shall not unreasonably deny the consent and once the request is made in writing, the City has 30 days to make its determination. If the City does not, per the terms of the Lease, the Lease transfer is deemed accepted.

According to Mr. De Graffenreidt at the last meeting, GSF provided the City Notice in October 2016 and the City did not reject the transfer timely. Therefore as a matter of contract law, the transfer is deemed approved

Notwithstanding the right to deem the transfer accepted, RH 2401 does not wish to go forward with the transaction unless they are actually approved by the Council.

The approval may not be a "legal" requirement, but rather a term requirement between GSF and RH 2401.

It is questionable if this requirement to be approved by RH 2401 renews the Council's option to deny the assignment. Regardless of whether it does or does not; I would state that any such denial of RH 2401 should be predicated ON A REASONABLE BASIS FOR THE SPECIFIC DENIAL OF THIS PROPOSED TENANT. THIS DOES NOT INCLUDE "AN UNHAPPINESS WITH THE LEASE THAT HAS BEEN PREVIOUSLY NEGOTIATED" AS A PROPER BASIS TO DENY RH 2401.

Issue 2- Does the City have the right to reject the request to clarify the legal description in the 4th Lease Amendment. – I do not believe so.

Mr. Degraffenreidt does not believe so and I concur with his opinion. Specifically, in the 3rd and 4th Lease Amendments, the City and GSF negotiated to permit GSF to use the “hotel site” for parking for the duration of the Lease. The area that was to be included was shown on a picture delineating the area. I can find no Lease provision which would permit the withholding of a legal description of the agreed upon property contained in the picture. In fact, the leasehold mortgage provisions of the Lease, Section 25(i) specifically states that “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 require”. The requirement of an accurate legal description would certainly fall under this provision.

Issue 3- As a final issue, although moot for tomorrow night’s purposes as GSF is not in default under the Lease, I have prepared a detailed response with relevant documents and references to Ms. White’s April 9, 2017 e-mail, delineating the appropriate history of the DDA, the Lease and the Lease Amendments.

Ms. White seems to attribute characteristics to me and staff which we simply do not have. To those who know me, I always refer to myself as the “sword of my master”. I do not create policy. That is for the Council. My job is to execute the policy created by the Council. Both I and staff, throughout the negotiation and re-negotiation process with GSF have tried to execute the Council’s policy and have presented each Lease Amendment to the Council for its review and approval. We have always understood that the approval and/or rejection of these proposed amendments rest unapologetically with the Council. Nevertheless, and without seeking shelter behind others, I have attempted to answer Ms. White’s questions directly and offer the insight as to why the City did what it did (and why it did not do certain things) in each situation presented.

Attached as composite Exhibit “C” is Ms. White’s e-mail with my responses in blue; Section 14(a)(iv), Section 14(a)(v), Section 14(a)(vi) of the Lease, and Section 35(d) of the Lease; Article 7 of DDA and Sections 13.01(a) and 13.01(c) of the DDA; and Mr. Skyer’s financial projections for the Ocean Mall .

I hope this memo helps to clear things up.

**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.



MEMORANDUM

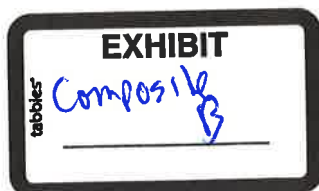
TO: RUTH C. JONES, CITY MANAGER
FROM: ^{PHR} PAMALA H. RYAN, B.C.S., CITY ATTORNEY
DATE: MARCH 25, 2014
RE: LANDLORD ESTOPPEL CERTIFICATE: OCEAN MALL

This is the second "Landlord Estoppel Certificate" as presented by Attorney Wayne Richards on behalf of Florida Retail LLC for execution by the City. You executed a similar letter in September 2013. You are attesting to the fact that all matters listed in the estoppel certificate are true.

Thank you for your attention to this matter.

Attachment

PHR:syj



FILE COPY

LANDLORD ESTOPPEL CERTIFICATE (REAFFIRMED)

Landlord: City of Riviera Beach, Florida
Tenant: GSF Florida Retail LLC, a Delaware limited liability company
Premises: 2401 – 2643 North Ocean Avenue, Riviera Beach, Florida
Use: Shopping Center known as the Ocean Mall

Landlord states as follows:

- 1) Tenant leases the Premises under that certain Ground Lease – Retail agreement dated as of December 18, 2006, as modified by a First Amendment to Ground Lease—Retail Ocean Mall dated as of May 15, 2013, by a Second Amendment to Ground Lease—Retail Ocean Mall dated as of January 15, 2014, and by a Third Amendment to Ground Lease—Retail Ocean Mall dated as of March 19, 2014 (collectively, the "Lease").
- 2) Rental under the Lease is paid annually and has been paid through 2013 with 2014 annual rent not yet due. Rent is calculated annually pursuant to Section 2 of the Lease.
- 3) Landlord has consented to Tenant's assignment of the Lease to TJAC Singer Island LLC, a Florida limited liability company.
- 4) Tenant is not in default of any of the terms of the Lease.
- 5) The Lease is in full force and effect and there have been no modifications or amendments to the Lease, except as noted in paragraph 1 above.

Dated: March 25, 2014.

City of Riviera Beach, Florida, as Landlord

By: Ruth C. Jones
Ruth Jones, City Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

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

To: City Council Chair Davis, Vice Chair Anderson, Council Johnson, Council Hubbard and Council Pardo

From: Tina M. White, Homestead Property Taxpayer

Date: April 9, 2017

Subject: Ocean Mall **Give Away** of its most valuable asset-prime ocean front property for the Next 40 Years

Did you know that GSF or assignee's Ocean Mall Ground Lease annual rent of a **mere \$63,000**, translates to a **measly ninety-seven cents (\$.97) x 65,000 square feet** for the City's most **valuable asset-prime ocean front property/dirt (Ocean Mall)**?

The Lease entitled the City to 4% of the Gross Revenue. We obtained the \$63,000.00 based upon 80% Occupancy @ current market rate. The real value has always been the right to collect the parking revenues, which the City obtained in negotiations with GSF. The original Lease prevented the City from imposing a parking revenue system and under special events would have had to obtain permission from the Tenant and split the revenue.

If you look at Paul Skyer's numbers, there is simply no real room to negotiate higher on the % of rent. As shown in his spreadsheets, the property operates at minimal margins or at a loss based on his numbers.

Why is it **fiscally sound** for the elected officials to **terminate** GSF's Ocean Mall Ground Lease for **contract breaches**?

Every part of the argument on why it is fiscally sound, is based upon the improper predicate that there is a breach of the Lease. This entire predicate is incorrect.

The only alleged potential breach is based upon a purported failure by OMRD to comply with a Community Benefits Participation Agreement Contained in Article 7, of the DDA.

THE CITY HAS NO RIGHT TO TERMINATE THE LEASE BASED ON A PURPORTED BREACH OF THE COMMUNITY BENEFITS PARTNERSHIP AGREEMENT CONTAINED IN SECTION 7 OF THE DDA. I NEED TO BE EXTREMELY CLEAR ON THIS POINT.

- I. The DDA was terminated per agreement on May 31, 2013 per the FIRST LEASE AMENDMENT. As part of the negotiations which were undertaken in order to obtain value and avoid litigation without a clear positive outcome as a result of the mandatory extensions of time which were required to be given to cure any default which could not be cured in 30 days under Section 14(a)(iv) of the Lease.

As of May 31, 2013 there cannot be a breach of an agreement that no longer exists.

In fact, after the First Lease Amendment the City executed 2 estoppel letters: One in September 2013 and One in March 2014 attesting to the fact that as of that date "Tenant is not in default of any of



the terms of the Lease". An estoppel letter is a letter issued by the Landlord that is intended to be relied upon by the Tenant and/or third parties who may be interested in lending and/or taking over the Lease.

- II. For the Sake of Discussion, even if the May 31, 2013 termination of the DDA had not occurred, OMRD's failure to perform under the COMMUNITY BENEFITS PARTNERSHIP AGREEMENT CANNOT CONSTITUTE A BREACH OF THE LEASE AS A MATTER OF LAW.

It is undeniable that the actual terms of the Lease govern the obligations of the parties under the Lease. Section 14 (a) of the Lease defines an "Event of Default" under the Lease. If whatever facts you are seeking to apply does not fall under an "Event of Default", it cannot be "an Event of Default" and cannot form the basis of "Event of Default".

"EVENTS OF DEFAULT" UNDER THE LEASE ARE DELINEATED UNDER SECTION 14(a) OF THE LEASE. THEY ARE AS FOLLOWS (Paraphrased with comments on applicability):

14(a)(i)- Tenant fails to make payment of percentage rent. **GSF has not done this.**

14(a)(ii)- failure to pay the costs, maintenance, taxes (the Triple Net). **GSF has not done this.**

14(a)(iii)- Fails to maintain insurance. **GSF has not done this.**

14(a)(iv)- Breach a **Lease covenant** and fails to cure within 30 days, or longer of cannot be cured within 30 days. **GSF has not done this.**

14(a)(v)- Tenant fails to perform under Section 13.01(a) of the DDA which results in the Termination of the DDA under Section 14.01 of the DDA.

Section 13.01(a) of the DDA is the failure to commence construction of PHASE I by the construction commencement date. This is inapplicable to GSF as at the point it took over, construction was commenced and the only remaining piece of PHASE I was to complete the demolition and rebuild of the 7-11 building.

The relevant portion of Section 14.01 of the DDA to 13.01 (a) of the DDA provides that in the event of a breach of 13.01(a), the City could terminate the DDA. As stated above, at the time GSF took over, the City could not terminate the Lease based upon Section 13.01 of the DDA as construction was commenced.

14(a)(vi)- Tenant fails to perform under section 13.01(c) of the DDA which results in the Termination of the DDA under Section 14.01 of the DDA.

Section 13.01(c) of the DDA required Substantial Completion of Phase I by "X" date.

This was an actual potential breach condition when GSF took over the property. However, due to the language of the Lease, it was highly likely that GSF would be afforded additional and virtually unlimited time to cure the breach so long as it was moving forward with reasonable diligence.

Specifically, under Section 13.01(c) of the DDA, Substantial Completion was not a well defined term. In addition, if the City issued a Default Notice for this breach, under the Lease and DDA, GSF would have been required to be afforded “the time reasonably necessary to cure the default if it was not capable of being completed in 30 days” See Sections 14(a)(iv) of the Lease and Section 13.01 (d) of the DDA. If the City attempted to terminate the Lease and take the property back for its failure to complete the demolition and rebuilding of the 7-11 building, in all likelihood GSF would have gotten additional time to complete and would have not been required to pay the City anything to obtain the additional time.

Furthermore, if the City litigated and lost on this issue, the City would have had to pay its own attorney’s fees as well as GSF’s pursuant to Section 20 of the Lease which provides for the payment of the prevailing party’s attorney’s fees resulting in an actual loss to the City if it decided to litigate the failure to complete breach.

The lack of a clear victory in litigation based upon the language of the Lease; GSF’s ability to cure without making any payments to the City should the City litigate; and the very real possibility of losing the ligation and having to actually pay GSF’s attorney’s fees in a losing effort, was the exact reason the City engaged in the negotiations.

The threat of declaring a breach and terminating the Lease served as the City’s official position in negotiating with GSF for the First Lease Amendment, discussed below.

It should always be noted that instead of collecting nothing and potentially losing the lawsuit, the City: Acquired over \$1.3 million in cash; plus obtained a stabilized and predictable income stream not based on Tenant performance but instead based upon 80% occupancy at current market rates plus CPI adjustments that it can use to borrow and pay for another \$3 million loan; plus acquired the strip of land to the CRA; plus acquired the unfettered right to meter parking and collect revenue which is estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE; plus got GSF to pay for the meter system.

14(a)(vii) Tenant admits in writing, that it is generally unable to pay its debts. **This has never been applicable to GSF.**

14(a)(viii) Tenant makes an assignment for the benefit of creditors. This is a statutory state-level bankruptcy. **GSF has not done this.**

14(a)(ix)- Files for Chapter 11 bankruptcy. **GSF has not done this.**

14(a)(x)- Files for bankruptcy liquidation. **GSF has not done this.**

14(a)(xi) A judgment and levy is entered against GSF in excess of \$2 million. GSF has not done this. **GSF has not done this.**

14(a)(xii)- GSF abandons the Leased Premises. **GSF has not done this.**

14(a)(xiii) if Tenant does any act, or other circumstance occurs, which this Lease expressly provides is an Event of Default hereunder. **GSF has not done this.**

Furthermore, Section 35(c) of the Lease expressly provides that "This instrument shall constitute the entire Lease unless otherwise hereafter modified by both the 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 the Lease).

The Exhibits to the Lease were:

- a. Legal description of the Leased Premises – Exhibit "A".
- b. Permitted exceptions to title- Exhibit "B"
- c. Streets and sidewalks to be abandoned- Exhibit "C"

THE DDA WAS NOT AN EXHIBIT TO THE LEASE AND AS WILL BE SHOWN, SECTION 7 CANNOT FORM THE BASIS OF A DEFAULT EVEN IF THE DDA WAS NEVER TERMINATED.

THE DDA REFERENCES IN THE LEASE:

The DDA is referenced in the **Whereas clauses of the Lease**, but it is not referenced as "an exhibit" to the Lease and the language "incorporated herein by reference" was not used in those clauses. **Therefore by the clear and unambiguous language of the lease, the entire DDA is not "part of the lease" under section 35(c) of the lease.**

As noted above, part of the DDA is, in fact, included in the Lease. Specifically, Sections 14(a)(v) and Section 14(a)(vi) of the Lease include Sections 13.01(a) and 13.01(c) of the DDA. However, as explained above, GSF was not in breach of Sections 14(a)(v) of the Lease and the City negotiated as opposed to litigating section (14)(a)(vi).

Restated, as clearly evidenced by the Lease terms, a defined "Event of Default" could not occur under the Lease for any breach of the Community Benefits Partnership Agreement between OMRD and the City as that was contained in Article 7 of the DDA and not included or referenced in Sections 13.01(a) or 13.01(c) of the DDA and was not a delineated "Event of Default" under Section 14(a)(xiii) of the L Lease.

SO, DESPITE THE FACT THAT THE DDA WAS TERMINATED ON MAY 31, 2013 - IF WE GO TO THE ACTUAL LANGUAGE OF THE LEASE; IT IS CLEAR BY THE EVERY TERMS OF THE LEASE THAT OMRD'S FAILURE TO PERFORM UNDER THE COMMUNITY BENEFITS PARTNERSHIP AGREEMENT CANNOT FORM THE BASIS OF AN "EVENT OF DEFAULT" OR "BREACH" OF THE LEASE.

1. It gives the City the legal leverage to **negotiate** a Ground Lease based on **commercial market rate** at a minimum of **\$6** x 65,000 square feet x 40 years=**\$15,600.00** for the City's most **valuable**

asset-prime ocean front property/dirt (Ocean Mall); which **recoups** the taxpayers' investment of **\$10.4 M.**

The \$10.4 million is **owed to the City by the CRA (NOT OMRD OR GSF)** and will be recouped from CRA revenue. This was and remains the "deal" since its inception. This loan is not part of the Lease monies that OMRD or GSF was ever required to pay back.

2. The elected officials have a **fiduciary duty** to **terminate breached contracts**, especially ones that contain language to make **1% of hard construction cost contributions** to the City, and to contract and hire locally-African Americans; as contained in the City and OMRD's Community Benefits Partnership Agreements executed December 18, 2006, which **legally required GSF** to **strictly comply** in the construction of **Building B** and **Parking Lot** in **Phase I** left uncompleted by OMRD in 2013.

OMRD's failure to abide by the Community Benefits Partnership Agreement cannot constitute a breach of the Lease as a matter of law as per the 1st Lease Amendment and the Language of the actual Lease.

As far as a fiduciary duty, it should not go unnoticed that had the City brought such litigation and did not prevail, it would have received nothing from GSF and would have had to pay GSF the costs of litigation. Instead the City received over \$1.3 million in cash; got a strip of land back from GSF for the CRA; obtained the completion of the project; and obtained the rights to meter parking and receive all revenues which is estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.

As to the parking issues and shortage of spots, there was a requirement for 400 spaces. The plans submitted showed 400 spaces. The City signed off on the parking and never conducted a hard count. Thus, if litigation were to ensue over that issue, there was a real possibility of waiver of the condition by the City and or estoppel by the City as they accepted the completed parking lot without verifying the actual number of spots. Thus once again, the City successfully negotiated the 3rd Lease Amendment as opposed to litigating with a real possibility of losing and having to pay for GSF's legal fees.

3. Did you know on March 2, 2016 (**Amendment 4**) **Atty. Richard Jarolem**, who the taxpayers pay at **\$350** per hour, could have advised the elected officials there were **legal grounds** to **terminate** GSF's Ground Lease for failing (**BREACHING**) to comply the **Community Benefits Partnership Agreement**, which required GSF to demonstrate good faith efforts of awarding **25%** of construction contracts to **African Americans** for the construction of **Building B** and **Parking Lot**?

- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
- b. As discussed above, in March 2, 2016 there were no legal grounds to declare a breach of the Lease by any purported failure to comply with the DDA (which included the Community Benefits Partnership Agreement) as the DDA was terminated by the parties on May 31, 2013 and as further discussed above, Article 7 of the DDA (the Community Benefits Partnership Agreement) was not incorporated into the Lease and could not form the basis of an "Event of Default" under the Lease.
- c. As to the 4th Lease Amendment, the City obtained a stabilization of the Rent it was to receive based upon 80% occupancy with a CPI adjustment. This resulted in a payment of \$63,000.00/year which was planned to be used to obtain an additional \$3 million to be used by the City for additional and/or ongoing projects.

Furthermore, as evidenced by Mr. Skyer's numbers, there is simply not a lot of profit (or none) in the Ocean Mall for the Tenant. His projections show that unless the Ocean Mall is 90% Leased, the Tenant can expect to lose money for the next 14+ years.

The statement above also ignores the fact that the City also got GSF to agree to pay for and provide the parking system as "turn key" so that the City could engage the parking revenue which is **which is estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE. In addition, the actual number paid by GSF for the parking system to the City was an additional \$81,231.00 in cash.**

In addition to the foregoing, the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of \$ 58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41, 666.66/month for 9 months totaling \$333,333.28.00 under the 3rd Lease Amendment.

4. Did you know after April 24, 2013 GSF Florida Retail, LLC by virtue of OMRD's foreclosure, were **legally** required to **strictly comply** with all of the **tenets** of OMRD's Ocean Mall Ground Lease, Developer Disposition Agreement (**DDA**) and Community Benefits Partnership Agreements executed with the City on December 18, 2006, because **Building B** and the **Parking Lot** was not completed by OMRD in **Phase I** and the Hotel in **Phase II**?

This is not correct. GSF was required to comply with the Lease, as its rights were derived from the foreclosure of the Leasehold Mortgage. GSF's obligations were limited to the Lease and its Exhibits and inclusions by reference. This has been discussed in detail, above. In addition, the

Hotel Site and/or obligation to complete the Hotel was never part of the Lease and was separated out in the DDA from Phase I.

Did you know on March 2, 2016 (**Amendment 4**) **Atty. Richard Jarolem**, who the taxpayers pay at **\$350** per hour, **failed** to advise the elected officials there were grounds to **terminate** GSF's Ground Lease, for failing (**BREACHING**) to comply with the **Community Benefits Partnership Agreement**, which required GSF to contribute to the City- **1% of Hard Cost for Construction** for **Building B** and **Parking Lot**?

- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
- b. As discussed above, in March 2, 2016 there were no legal grounds to declare a breach of the Lease by any purported failure to comply with the DDA (which included the Community Benefits Partnership Agreement) as the DDA was terminated by the parties on May 31, 2013 and as further discussed above, Article 7 of the DDA (the Community Benefits Partnership Agreement) was not incorporated into the Lease and could not form the basis of an "Event of Default".
- c. As to the 4th Lease Amendment, the City obtained a stabilization of the Rent it was to receive based upon 80% occupancy with a CPI adjustment. This resulted in a payment of \$63,000.00/year which was planned to be used to obtain an additional \$3 million to be used by the City for additional and/or ongoing projects.

Furthermore, as evidenced by Mr. Skyer's numbers, there is simply not a lot of profit (or none) in the Ocean Mall for the Tenant. His projections show that unless the Ocean Mall is 90% Leased, the Tenant can expect to lose money for the next 14+ years.

The statement above also ignores the fact that the City also got GSF to agree to pay for and provide the parking system as "turn key" so that the City could engage the parking revenue which is **which is estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE. In addition, the actual number paid by GSF for the parking system to the City was an additional \$81,231.00 in cash.**

In addition to the foregoing, the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of \$ 58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41, 666.66/month for 9 months totaling \$333,333.28.00 under the 3rd Lease Amendment.

Did you know after April 24, 2013 when GSF Florida Retail, LLC by virtue of OMRD's foreclosure, **Atty. Richard Jarolem**, who the taxpayers pay at **\$350** per hour, had a **legal fiduciary duty** to advise the elected officials to legally **terminate** OMRD's Ocean Mall Ground Lease, Developer Disposition Agreement (**DDA**) and Community Benefits Partnership Agreements executed with the City on December 18, 2006?

- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
- b. As discussed above, at no time was there legal grounds to declare a breach of the Lease by any purported failure to comply with Article 7 of the DDA (the Community Benefits Partnership Agreement) as discussed above, Article 7 of the DDA (the Community Benefits Partnership Agreement) was not incorporated into the Lease and could not form the basis of an "Event of Default" under the Lease.
- c. The potential litigation and outcomes regarding the potential to terminate the Lease as it related to the failure to complete the demolition and rebuilding of the 7-11 building were discussed with the City Attorney and Council in meetings held with the City Attorney, Richard Jarolem and individual Councilpersons.
- d. In fact, the position taken by the City in negotiations with GSF was that unless an amicable resolution was reached, the City would serve the default on GSF and sue to terminate the Lease and take the property back. (The perils of actually litigating this issue are described above). **These negotiations resulted in the payments by GSF to the City in excess of \$550,000.00 on or before May 2013.**
- e. **It should not go unnoticed that had the City brought such litigation and did not prevail; it would have received nothing from GSF and would have had to pay GSF the costs of litigation. Instead the City has received over \$1.3 million in cash; gotten a strip of land back from GSF for the CRA; obtained the completion of the project; and obtained the rights to meter parking and received all revenues which is estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.**

Did you know after April 24, 2013 when GSF Florida Retail, LLC by virtue of OMRD's foreclosure, Atty. Richard Jarolem, who the taxpayers pay at **\$350** per hour, had a **legal fiduciary duty** to advise the elected officials to execute with GSF the **identical language** contained in OMRD's Ocean Mall Ground Lease, Developer Disposition Agreement (**DDA**) and Community Benefits Partnership Agreements executed with the City on December 18, 2006; because **Building B** and the **Parking Lot** were not completed by OMRD in **Phase I** and the **Hotel** in **Phase II**?

- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
- b. The "duty to advise the Council to execute with GSF identical language" is absolutely and flatly incorrect. Identical language is not required and in this case was not advisable as the

Lease's language had significant room for improvement. As a result, the City engaged in negotiations with GSF at arm's length per the directives received. The goal of the City in the negotiations was to get money and a completed project as well as eliminating some, if not all, of the "loopholes" which formed the weakness of the City's position in litigating the failure to complete the building under the original Lease. Had identical language been used, the City would not have collected **the payment of the \$550,000.00 in cash the City received** (\$300,000.00 before the First Lease Amendment and \$250,000.00 as part of the First Lease Amendment), nor would it have been able to revise the Default Language of the Lease in its favor.

In the First Lease Amendment, the City negotiated a significant revision to the ability of GSF to obtain additional time to cure any breach under the Lease. As evidenced by the First Lease Amendment, GSF had to complete construction by May 31, 2014 unless delayed by an "Unavoidable Delay" as provided under Section 35(o) of the Lease. These "Unavoidable Delays" include "strike, inability to obtain materials, war, terrorist attack, acts of God, etc. . . " This eliminated GSF's rights to be granted additional time "if the cure could not be completed in 30 days" under the Original Lease.

These changes resulted in the payment of \$550,000.00 to the City (\$300,000.00 before the First Lease Amendment and \$250,000.00 as part of the First Lease Amendment) and the Lease revisions were a complete strengthening of the City's position and ability to leverage further monies and concessions in the Future.

It should not go unnoticed that had the City brought such litigation and did not prevail; it would have received nothing from GSF and would have had to pay GSF the costs of litigation. Instead over the course of the negotiations, the City has received over \$1.3 million in cash; got a strip of land back from GSF for the CRA; obtained the completion of the project; and obtained the rights to meter parking and received all revenues which is estimated at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.

Did you know after April 24, 2013 when GSF Florida Retail, LLC by virtue of OMRD's foreclosure, **Atty. Richard Jarolem**, who the taxpayers pay at **\$350** per hour, had a **legal fiduciary duty** to advise the elected officials that OMRD breached the Ocean Mall Ground Lease, Developer Disposition Agreement (**DDA**) and Community Benefits Partnership Agreements executed with the City on December 18, 2006; and that OMRD's **breaches attached** to GSF on **April 24, 2013**?

- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)

- b. As discussed above, at no time was there legal grounds to declare a breach of the Lease by any purported failure to comply with Article 7 of the DDA (the Community Benefits Partnership Agreement) as discussed above, Article 7 of the DDA (the Community Benefits Partnership Agreement) was not incorporated into the Lease and could not form the basis of an "Event of Default" under the Lease.
- c. The potential litigation and outcomes regarding the potential to terminate the Lease as it related to the failure to complete the demolition and rebuilding of the 7-11 building were discussed with the City Attorney and Council in meetings held with the City Attorney, Richard Jarolem and individual Councilpersons.
- d. In fact, the position taken by the City in negotiations with GSF was that unless an amicable resolution was reached, the City would serve the default on GSF and sue to terminate the Lease and take the property back. (The perils of actually litigating this issue are described above).
- e. The City engaged in negotiations with GSF at arm's length per the directives received. The goal of the City in the negotiations was to get money and a completed project as well as eliminating some, if not all, of the "loopholes" which formed the weakness of the City's position in litigating the failure to complete the building under the original Lease.

Furthermore, the City negotiated a significant revision to the ability of GSF to obtain additional time to cure any breach under the Lease. As evidenced by the First Lease Amendment, GSF had to complete construction by May 31, 2014 unless delayed by an "Unavoidable Delay" as provided under Section 35(o) of the Lease. These "Unavoidable Delays" include "strike, inability to obtain materials, war, terrorist attack, acts of God, etc. . ."

These changes in the First Lease Amendment resulted in the payment of \$550,000.00 to the City (\$300,000.00 before the Lease Amendment and \$250,000.00 as part of the Lease Amendment) and the Lease revisions that eliminated GSF's ability to obtain an automatic extension to cure a non-monetary breach. This was a complete strengthening of the City's position and enabled the City to leverage further monies and concessions in the Future.

- f. **It should not go unnoticed that had the City brought such litigation and did not prevail; it would have received nothing from GSF and would have had to pay GSF the costs of litigation. Instead over the course of the negotiations, the City has received over \$1.3 million in cash; got a strip of land back from GSF for the CRA; obtained the completion of the project; and obtained the rights to meter parking and received all revenues which is estimated at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.**

In the April 5, 2017 City Council meeting consultant **Paul Skyer** was asked by **City Manager Evans** to tell the elected officials the **commercial market rate** for the Maritime Academy **DIRT** (Ground Lease), which is **33,376** square feet.

Maritime has rented **33,376** square feet from landlord City/Taxpayers from 2006-2017- eleven **(11)** years for a mere **\$500** per month rent x 11 years=**\$66,000**.

In the April 5, 2017 City Council meeting consultant **Paul Skyer** stated that the City could rent the **DIRT** (Ground Lease) housing the Maritime Academy at the **commercial market rate** of **\$6** a square foot x 33,376 square feet=**\$200,256** annual rent x 11 years (years of lease 2006-2017)=**\$2,202,816**.

COMMON SENSE and **INTELLECT**: The elected officials without receiving the unreliable, untrustworthy and convoluted legal opinions of **Atty. DeGraffenreidt** and **Atty. Richard Jarolem**, should know that if according to consultant **Paul Skyer** the **DIRT** (Ground Lease) Maritime Academy-33,376 square feet **commercial market rate** is **\$6 per square foot**; at a **minimum** the **City's** most **valuable asset-prime ocean front property/dirt (Ocean Mall)** should be **renting** to GSF or assignee at a minimum of **\$6** a square foot, and not a **mere ninety-seven cents (\$.97)** x 65,000 square feet= **\$63,000** annual rent x 40 years=**\$2.2 M**.

Did know on March 2, 2016 the elected officials were advised by **Atty. Richard Jarolem**, who the taxpayers pay at **\$350** per hour, to amend GSF's Ocean Mall Ground Lease-the City's most **valuable asset-prime ocean front property/dirt**, to an annual rent payment in the fiscally unsound amount of a **mere ninety-seven cents \$.97** x 65,000 square feet = **\$63,000 annual rent** x 40 years=**\$2.2 M GROSS PROFITS**. (See Amendment 4)

- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
- b. The Lease was already signed. The City was entitled to its percentage of the Gross Rent. There was no agreement for a substantive re-negotiation of the Lease. The City negotiated a stabilization of the rents it could expect to receive at 80% occupancy with CPI price index adjustments upward. That resulted in a total of \$63,000.00/yr. That money was intended to be used to leverage and borrow \$3 million to be used for additional City purposes.

Furthermore, as evidenced by Mr. Skyer's numbers for the Ocean Mall, there is simply not a lot of profit (or none) in the Ocean Mall for the Tenant. His projections show that unless the Ocean Mall is 90% Leased, the Tenant can expect to lose money for the next 14 + years.

The statement above also ignores the fact that the City in the 4th Lease Amendment also got GSF to agree to pay for and provide the parking system as "turn key" so that the City could engage the parking revenue which is **estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID**

FOR BY GSF UNDER THE LEASE. The actual number paid by GSF for the parking to the City was an additional \$81,231.00 in cash.

In addition to the foregoing, the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of \$ 58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41, 666.66/month for 9 months totaling \$333,333.28.00 under the 3rd Lease Amendment.

It is extremely misleading to omit the other portions and consideration received by the City in the 4th Lease Amendment, when the truth is that the City has continually extracted significant monies (over \$1.3 million in cash), property (the strip of land for the CRA), the actual completion of the project on GSF's dime, and the rights to extremely large income streams estimated to be between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) for the parking revenue alone.

Did you know that on March 24, 2016 GSF's average tenant rent is **\$24** x 65,000 total square feet x 40 years=**\$62,400,000 GROSS PROFITS.**

As to the Gross Profits; this statement is not true. The math listed assumes market rate at 100% occupancy, with no debt load, no expenses, no capital improvements and no fees whatsoever. Mr. Skyer has gone through the numbers, and shown them to the public and the Council. This is not a profitable venture and is most likely a money loser for the Tenant.

In fact, if these numbers were even remotely close to true, then why would GSF want to "sell" the Lease? Why would they have been marketing the Lease since 2013 with no buyers until now? Why is no one lining up behind the buyer to step-in if the deal falls through?

The answer is simple. Mr. Skyer's numbers don't lie.

If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (at \$63,000.00 with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

Did you know that the City/Taxpayers are only receiving a mere **ninety cents (\$.97)** out of GSF's tenant average rent of **\$24** per square foot? Providing a per square foot **gross profit** for GSF of **\$23.03** per tenant.

Not true. Not Even close to true. The math listed for Gross Profit assumes no expenses, no capital improvements and no fees whatsoever. It is not Gross Profit. Mr. Skyer has gone through the numbers, and shown them to the public and Council. This is not a profitable venture and is most likely a money loser for the Tenant.

In fact, if these numbers were even remotely close to true, then why would GSF want to "sell" the Lease? Why would they have been marketing the Lease since 2013 with no buyers until now? Why is no one lining up behind the buyer to step-in if the deal falls through?

The answer is simple. Mr. Skyer's numbers don't lie.

If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (at \$63,000.00 with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

Did you know that GFS or assignee's tenants annually rents automatically **increases** by **3%** per square foot for the life of their leases.

I don't know this to be true. I do not know this to be false. Each Lease gets negotiated with GSF and GSF can make whatever deals it can. However, I would point out that GSF has only been able to Lease 48% of the Ocean Mall, thus there is a 52% vacancy which prohibits any "profitable" scenario for an Ocean Mall Tenant according to Mr. Skyer's numbers.

If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (at \$63,000.00 with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

Did you know additionally, GSF' tenants are charged **\$9.65 per square foot** for **NNN (insurance, property taxes and common area maintenance)**, which also annually automatically **increases 3%** per square foot for the life of their leases?

I don't know this to be true. I do not know this to be false. Each Lease gets negotiated with GSF and GSF can make whatever deals it can. However, I would point out that GSF has only been able to Lease 48% of

the Ocean Mall, thus there is a 52% vacancy which is paid for by the Landlord as the "Common Area Maintenance Charges" are apportioned to the space the Tenant occupies.

Thus 52% of these charges have been paid by GSF and will continue to be paid by the new Tenant until the spaces are leased. Also, this number does not account for monies that the Landlord will need to spend, at their own expense, for Tenant Improvements or buildouts for tenants to occupy vacant spaces.

Regardless of my opinion, according to Mr. Skyer's numbers, this is not a likely profitable situation for the Tenant for a considerable amount of time.

If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (at \$63,000.00 with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

Did you know that GSF or assignee's earns from tenants' **NNN (insurance, property taxes and common area maintenance)** is **\$9.65** x 65,000 square feet x 40 years=**\$25,090,000 GROSS PROFITS?**

Not true. Not Even close to true. The math listed for Gross Profit assumes market rate at 100% occupancy, with no debt load, no expenses, no capital improvements and no fees whatsoever. Mr. Skyer has gone through the numbers, and shown them to the public and Council. This is not a profitable venture and is most likely a money loser for the Tenant.

In fact, if these numbers were even remotely close to true, then why would GSF want to "sell" the Lease. Why would they have been marketing the Lease since 2013 with no buyers until now? Why is there no one lining up behind the Buyer to step-in if the deal falls through?

The answer is simple. Mr. Skyer's numbers don't lie.

If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

Did you know that GSF or assignee will earn at a minimum **\$60,200,000** more in rent from their tenants, than the taxpayers in **40 years** will earn from its tenant (GSF or assignee) leasing the City's most

valuable asset-ocean front property; before GSF or assignee applies their annual rents automatic **3% increases** and NNN per square foot annual automatic **increases** for the life of their tenants leases?

Not true. Not Even close to true. The math listed assumes market rate at 100% occupancy, with no debt load, no expenses, no capital improvements and no fees whatsoever. Mr. Skyer has gone through the numbers, and shown them to the public and Council. This is not a profitable venture and is most likely a money loser for the Tenant.

In fact, if these numbers were even remotely close to true, then why would GSF want to “sell” the Lease. Why would they have been marketing the Lease since 2013 with no buyers until now? Why is there no one lining up behind the Buyer to step-in if the deal falls through?

The answer is simple. Mr. Skyer’s numbers don’t lie.

If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a “Shangri-La” scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

On these numbers the City will actually profit between \$7.2 million and \$18 million more than the Tenant.

1. Why didn’t **Atty. Richard Jarolem** who the taxpayers pay at **\$350 per hour**, negotiate with GSF an annual **3% automatic increase** against the annual rent of **\$63,000**, instead of a **non-guaranteed CPI annual increase** for the amendment approved on **March 2, 2016**? **See Amendment 4.**
 - a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White’s point.)
 - b. Simple Answer. The City wanted to “unhinge” the payment from GSF from their actual performance under the Lease. The City also wanted to focus on engaging the parking revenue by forcing GSF to pay for a turn-key system.

The Lease was already signed. The City was entitled to its percentage of the Gross Rent. There was no agreement for a substantive re-negotiation of the Lease. The City negotiated a stabilization of the rents it could expect to receive at 80% occupancy with CPI price index adjustments upward. That resulted in a total of \$63,000.00/yr. That money was intended to be used to leverage and borrow \$3 million to be used for additional City purposes.

Furthermore, as evidenced by Mr. Skyer’s numbers, there is simply not a lot of profit (or none) in the Ocean Mall for the Tenant. His projections show that unless the Ocean Mall is 90% Leased, the Tenant can expect to lose money for the next 14 + years.

The statement above also ignores the fact that the City in the 4th Lease Amendment also got GSF to agree to pay for and provide the parking system as “turn key” so that the City could engage the parking revenue which is **estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.** The actual number paid by GSF for the parking to the City was an additional \$81,231.00 in cash.

In addition to the foregoing, the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of \$ 58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41, 666.66/month for 8 months totaling \$333,333.28.00 under the 3rd Lease Amendment.

Furthermore, If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a “Shangri-La” scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

It is extremely misleading to omit the other portions and consideration received by the City in the 4th Lease Amendment, when the truth is that the City has continually extracted significant monies (over \$1.3 million in cash), property (the strip of land for the CRA), the actual completion of the project on GSF’s dime, and the rights to extremely large income streams estimated to be between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) for the parking revenue alone.

2. Why didn’t **Atty. Richard Jarolem** who the taxpayers pay at **\$350 per hour**, negotiate a minimum annual rent of **\$6** per square foot x 65,000=**\$390,000** for the elected officials to approve amending GFS’ Ground Lease on **March 2, 2016**? **See Amendment 4.**
 - a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White’s point.)
 - b. Simple Answer. The City wanted to “unhinge” the payment from GSF from their actual performance under the Lease.

The Lease was already signed. The City was entitled to its percentage of the Gross Rent. There was no agreement for a substantive re-negotiation of the Lease. The City negotiated a stabilization of the rents it could expect to receive at 80% occupancy with CPI price index

adjustments upward. That resulted in a total of \$63,000.00/yr. That money was intended to be used to leverage and borrow \$3 million to be used for additional City purposes.

Furthermore, as evidenced by Mr. Skyer's numbers, there is simply not a lot of profit (or none) in the Ocean Mall for the Tenant. His projections show that unless the Ocean Mall is 90% Leased, the Tenant can expect to lose money for the next 14+ years. The \$6/sq. ft. could not be sustained by the Tenant on the rent side of the equation.

The statement above also ignores the fact that the City in the 4th Lease Amendment also got GSF to agree to pay for and provide the parking system as "turn key" so that the City could engage the parking revenue which is **estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.** The actual number paid by GSF for the parking to the City was an additional \$81,231 in cash in lieu of providing the system.

In addition to the foregoing, the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of \$ 58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41, 666.66/month for 8 months totaling \$333,333.28.00 under the 3rd Lease Amendment.

Furthermore, If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

It is extremely misleading to omit the other portions and consideration received by the City in the 4th Lease Amendment, when the truth is that the City has continually extracted significant monies (over \$1.3 million in cash), property (the strip of land for the CRA), the actual completion of the project on GSF's dime, and the rights to extremely large income streams estimated to be between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) for the parking revenue alone.

3. How can **Atty. Richard Jarolem** who the taxpayers pay at **\$350 per hour**, justify advising the elected officials to approve on March 2, 2016 an amendment to GSF's Ground Lease for a mere **ninety seven cents** (\$.97) x 65,000 square feet for an annual rent of **\$63,000 x 40 years=2.2 M?**
 - a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
 - b. Simple Answer. The City wanted to "unhinge" the payment from GSF from their actual performance under the Lease.

The Lease was already signed. The City was entitled to its percentage of the Gross Rent. There was no agreement for a substantive re-negotiation of the Lease. The City negotiated a stabilization of the rents it could expect to receive at 80% occupancy with CPI price index adjustments upward. That resulted in a total of \$63,000.00/yr. That money was intended to be used to leverage and borrow \$3 million to be used for additional City purposes.

Furthermore, as evidenced by Mr. Skyer's numbers, there is simply not a lot of profit (or none) in the Ocean Mall for the Tenant. His projections show that unless the Ocean Mall is 90% Leased, the Tenant can expect to lose money for the next 14+ years.

The statement above also ignores the fact that the City in the 4th Lease Amendment also got GSF to agree to pay for and provide the parking system as "turn key" so that the City could engage the parking revenue which is **estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.** The actual number paid by GSF for the parking to the City was an additional \$81,231.00 in cash.

In addition to the foregoing, the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of \$ 58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41,666.66/month for 8 months totaling \$333,333.28.00 under the 3rd Lease Amendment.

Furthermore, If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

It is extremely misleading to omit the other portions and consideration received by the City in the 4th Lease Amendment, when the truth is that the City has continually extracted significant monies (over \$1.3 million in cash), property (the strip of land for the CRA), the actual completion of the project on GSF's dime, and the rights to extremely large income streams estimated to be between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) for the parking revenue alone.

4. Why didn't **Atty. Richard Jarolem** who the taxpayers pay at **\$350 per hour**, research the commercial market rate for **prime oceanfront property/dirt (Ocean Mall)**, which at a minimum would have

indicated a rent of **\$6 x 65,000 square feet=\$390,000** annually x **40 years=\$15,600,000** paid to the **taxpayers**, which **recoups** their **\$10.4 M investment** given to OMRD for infrastructure.

- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
- b. As to the remainder: First and foremost, the CRA was, is and remains obligated to repay the City the \$10.4 million. This has been mentioned above.

As to researching the market rates, Mr. Jarolem is an attorney, not a real estate appraiser. The City did have an appraisal done of the Property, which established the market rates for renting space. These numbers were used to compare to the numbers that GSF was charging and receiving for its rented spaces.

With regard to seeking a higher number in negotiations with GSF in the 4th Lease Amendment, it must be remembered that the Lease was already signed. The City was entitled to its percentage of the Gross Rent. There was no agreement for a substantive re-negotiation of the Lease. The City negotiated a stabilization of the rents it could expect to receive at 80% occupancy with CPI price index adjustments upward. That resulted in a total of \$63,000.00/yr. That money was intended to be used to leverage and borrow \$3 million to be used for additional City purposes.

Furthermore, as evidenced by Mr. Skyer's numbers, there is simply not a lot of profit (or none) in the Ocean Mall for the Tenant. His projections show that unless the Ocean Mall is 90% Leased, the Tenant can expect to lose money for the next 14+ years.

The City in the 4th Lease Amendment also got GSF to agree to pay for and provide the parking system as "turn key" so that the City could engage the parking revenue which is **estimated for the next 40 years at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.** The actual number paid by GSF for the parking to the City was an additional \$81,231.00 in cash.

In addition to the foregoing, the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of \$58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41,666.66/month for 8 months totaling \$333,333.28.00 under the 3rd Lease Amendment.

Furthermore, If we look at the numbers provided by Mr. Skyer, the Tenant will stand to lose approximately \$5 million (on the worst case scenario) to profit \$1.6 million total (in a "Shangri-La" scenario) over the next 14 years. If the City engages its parking revenues, it stands to profit between \$9.8 million - \$19.6 million on the parking alone + another \$882,000.00 from the rent (with no CPI adjustments) for a total between \$10.6 million - \$20.4 million in NET revenue to the City; with the only expense being the installation of the parking system which has already been paid for by GSF in advance.

5. Why didn't **Atty. Richard Jarolem** who the taxpayers pay at **\$350 per hour**, advised the elected officials there were **OMRD and GFS' contract breaches** that sanctions the elected officials **terminating** the Ground Lease, DDA and Community Benefits Partnership Agreements; and that the elected officials are still **legally empowered** to **terminate** GSF or assignee's Ground Lease?
- a. My rate is \$300/hr and has not been raised in approximately 10 years. (I doubt this is material to Ms. White's point.)
 - b. As discussed above, at no time were there legal grounds to declare a breach of GSF's Lease by any purported failure to comply with Article 7 of the DDA (the Community Benefits Partnership Agreement) as discussed above, the DDA was terminated by the parties in May, 2013. In addition, as discussed above, Article 7 of the DDA (the Community Benefits Partnership Agreement) was not incorporated into the Lease and could not form the basis of an "Event of Default" under the Lease.
 - c. The potential litigation and outcomes regarding the potential to terminate the Lease as it related to the failure to complete the demolition and rebuilding of the 7-11 building were discussed with the City Attorney and Council in meetings held with the City Attorney, Richard Jarolem and individual Councilpersons before each Lease Amendment.
 - d. In fact, the position taken by the City in negotiations with GSF for the 1st Lease Amendment was that unless an amicable resolution was reached, the City would serve the default on GSF and sue to terminate the Lease and take the property back. **This resulted in the payments of over \$550,000.00 plus a lease revision that eliminated GSF's rights to automatic extensions of time to cure a non monetary default.**
 - e. As to 2nd Lease Amendment, GSF came to City in advance of any breach and negotiated the amounts of the extension fee in advance along with the return of the strip of land to the CRA. The Council was free to reject the money and land and force compliance; however the Council decided to take the money, take the land and require completion of the project using GSF's funds.
 - f. As to the 3rd Lease Amendment, this dealt with the parking issues and the shortfall below the 400 spaces. The perils of litigating this issue are outlined above and were discussed with the Council members individually. The City obtained the parking revenue rights and the right to collect revenue without any split. As discussed above, the parking revenue **is estimated at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate)** The 3rd Lease amendment also provided for the payment of \$41,666.66/month if completion was delayed. This yielded the City \$333,333.28 in extra payments from GSF.
 - g. As to the 4th Lease Amendment, the City engaged in negotiations with GSF at arm's length per the directives received and discussed above. In the 4th Lease Amendment the City was able to stabilize the rent it was entitled to at \$63,000.00/yr plus CPI, which allows the City to borrow \$3 million from this revenue alone. The City also got GSF to commit to installing the parking revenue system as a "turn-key" to the City (\$81,231); plus the City also was able to negotiate additional payments for failing to complete the 7-11 building rebuild at the rate of

\$58,333.33/month. This same type of provision resulted in the City obtaining 8 payments of \$41,666.66/month for 8 months totaling \$333,333.28 under the 3rd Lease Amendment.

- h. It should not go unnoticed that had the City brought such litigation for GSF's breach in 2013 and did not prevail; it would have received nothing from GSF and would have had to pay GSF the costs of litigation. Instead over the course of the negotiations, the City has received over \$1.3 million in cash; gotten a strip of land back from GSF for the CRA; obtained the completion of the project; and obtained the rights to meter parking and receive all revenues which is estimated at between \$28,000,000.00 IN PROFIT (conservative estimate) all the way to \$56,000,000.00 IN PROFIT (high-end estimate) TO THE CITY AS THE COSTS OF MAINTAINING THE PARKING LOT IS PAID FOR BY GSF UNDER THE LEASE.**

Exhibit A
Lease

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

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

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

DDA

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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 CITY OR ANY ASSETS OF CITY. The foregoing shall not require Developer to request advance waivers of lien from contractors or subcontractors.

(f) Any warranties in any construction contract entered into by Developer for the construction of the Civic Improvements shall be for the benefit of the City as well as Developer.

(g) Developer shall process permit applications for Civic Improvements for review and approval by the applicable Governmental Authority. Subject to the provisions of Article 4.02 hereof, the City will use all reasonable efforts to cause any Governmental Authority with jurisdiction over the Project to review such permit applications for the purpose of determining compliance with applicable ordinances and code requirements, and will make all reasonable efforts to complete such review within 15 days.

(h) Nothing contained in this Agreement shall grant or be deemed to grant to any contractor or any other Person engaged by Developer with any right of action or claim against the City Indemnified Parties with respect to any work any of them may do in connection with the Civic Improvements. Nothing contained herein shall create or be deemed to create any relationship between the City and Agency and any contractor or any such Person engaged by Developer and the City Indemnified Parties shall not be responsible to any of the foregoing for any payments due or alleged to be due thereto for any work performed or materials purchased in connection with the Civic Improvements.

ARTICLE 7

**COMMUNITY BENEFITS PARTNERSHIP PROGRAM; EQUAL OPPORTUNITY;
NON-DISCRIMINATION**

7.01 Community Benefits Partnership Program.

(a) A Community Benefits Partnership Program has been developed with respect to the Project in the form attached hereto as Exhibit C, which has been approved by the City and the Agency.

(b) The Developer shall contribute to the Community Benefits Partnership Program an amount equal to 1% of the hard construction costs for the Phase I Development and the Phase II Development, to be paid (except as provided below) at the time of receipt by the Developer of the last of all the building permits for both the Phase I Development and the Phase II Development. The Developer's contribution to the City pursuant to the terms of the Community Benefits Partnership Program shall be as follows:

(1) Two Hundred Fifty Thousand (\$250,000.00) Dollars, to be applied to the amount to be paid pursuant to subparagraph (b) above, at the time of the non-appealable site plan approval for the Phase I Development or any part thereof; and

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(2) To the extent not already paid pursuant to subparagraph (b) above, Two Hundred Fifty Thousand (\$250,000.00) Dollars at the time of the issuance of all the building permits for the Phase I Development or either sub-phase thereof, to be applied to the amount to be paid pursuant to subparagraph (b) above.

(c) If the Developer terminates this Agreement with respect to the Phase II Development, then the Developer shall not have to make any contribution to the Community Benefits Partnership Program with respect to the Phase II Development and the balance, if any, of 1% of the hard construction costs for the Phase I Development, required to be contributed to the Community Benefits Partnership Program pursuant to subparagraph 7.01 (b) above, shall be paid by the Developer at later of : (i) time of receipt by the Developer of the last of all the building permits for the Phase I Development, or (ii) the Developer's election to terminate this Agreement with respect to the Phase II Development.

ARTICLE 8

8.01 Non-Discrimination.

(a) Developer shall be an equal opportunity employer, and shall not engage in any unlawful discrimination against any Person because of race, creed, national origin, sex, age, disability, marital status or sexual orientation. Developer shall act in compliance with all Federal, state and local anti-discrimination laws.

ARTICLE 9

PROJECT REPRESENTATIVES; KEY PERSONNEL; PROJECT ADMINISTRATION

9.01 Project Representatives.

(a) Developer may, from time to time, designate up to two Persons as its project representatives. In this regard the Developer initially hereby designates Daniel Catalfumo and Norton Herrick as the "Developer's Project Representatives" to represent Developer in all of its dealings with City and Agency and the City and Agency's and Agency's Project Representative relating to the Project. City and Agency shall direct all communications regarding the Project to both Developer's Project Representatives.

(b) Within 30 days after execution hereof, City and Agency will designate an individual (or his successor appointed for such purpose) as the "City's and Agency's Project Representative" to represent City and Agency in all of its dealings with Developer and Developer's Project Representative relating to the Project. Developer shall direct all communications regarding the Project to the City and Agency's Project Representatives.

9.02 Project Administration.

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article, and all such amounts are defined as the "Award." City shall have no interest in any Award or any portion of it made in respect of Developer's leasehold estate or the Improvements, except as to its reversionary interest in them, all of which shall belong to and be paid to Developer. However, any claim or interest by Leasehold Mortgagee shall be deducted from Developer's Award and shall not reduce any compensation granted to City, and Developer shall have no interest in any Award or any portion of it made in respect of the City's reversionary estate.

12.04 Continuation. The foregoing provisions regarding a Condemnation shall govern prior to the Effective Dates of the respective Phase I Lease and Phase II Lease, thereafter the respective provisions of each such leases regarding Condemnation shall govern.

ARTICLE 13 EVENTS OF DEFAULT

13.01 Each of the following events shall be an "Event of Default" hereunder:

(a) if the Developer has not Commenced construction of the Phase I Development by the Phase I Construction Commencement Date as such date may be extended in accordance with this Agreement; or

(b) if the Developer has not Commenced construction of the Phase II Development by the Phase II Construction Commencement Date as such date may be extended in accordance with this Agreement; or

(c) if the Developer has not achieved Substantial Completion of the Phase I Development by the Phase I Completion Date as such date may be extended in accordance with this Agreement; or

(d) if Developer fails to observe or perform in any material respect any other term, covenant or condition of this Agreement on Developer's part to be observed or performed and Developer shall fail to remedy such Default within thirty (30) days after notice of such Default is given by City or Agency 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 Developer shall have no further grace or cure period with respect to any matter(s) not so susceptible to cure), Developer shall fail (i) within thirty (30) days after the giving of such notice of Default to institute all reasonable steps (and from time to time, as reasonably requested by City or Agency, Developer shall advise City and Agency of the steps being taken) 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 (1) year then the City and the Developer shall meet to discuss how best to complete the

Summary Operating Budget - 70% Occupancy Option with \$7 Million in Debt

Forecast Assumptions	
Annual Rent Increase	3.00%
Annual Operating Expense Growth	3.00%
Vacancy/ Loss Rate	30.00%
Annual Reserve Increase	3.00%

OCEAN MALL RIVIERA BEACH, FL

Summary Operating Budget - 80% Occupancy Option with \$7 Million in Debt

Operating Performance													
Real Structure													
Market Rate - Affordable													
	Units	Sq Foot	Rate	Actual	2015	2019	2020	2021	2022	2023	2024	2025	2026
Building "A"	6	30,733	\$24.87	\$764,330	\$764,330	\$787,260	\$810,877	\$835,204	\$860,260	\$886,066	\$912,650	\$940,029	\$968,230
Building "B"	3	13,669	\$24.87	\$347,409	\$347,409	\$357,691	\$378,623	\$391,012	\$402,742	\$414,825	\$427,269	\$440,087	\$453,260
Building "C"	5	8,125	\$24.87	\$226,939	\$226,939	\$233,747	\$240,759	\$252,982	\$265,422	\$278,084	\$290,977	\$304,106	\$317,479
Building "D"	5	18,202	\$24.87	\$452,604	\$452,604	\$466,264	\$480,252	\$494,660	\$509,500	\$524,785	\$540,528	\$556,744	\$573,446
Totals					\$1,791,361	\$1,845,102	\$1,900,455	\$1,957,469	\$2,016,193	\$2,076,679	\$2,138,979	\$2,203,148	\$2,268,243
Other Income					12,552	\$12,552	\$13,316	\$13,716	\$14,127	\$14,551	\$14,986	\$15,437	\$15,900
Total Revenues					1,803,913	1,857,654	1,913,772	1,971,185	2,030,320	2,091,230	2,153,967	2,218,585	2,285,143
Less: General Vacancy					(358,272)	(368,020)	(380,091)	(391,494)	(403,239)	(415,336)	(427,796)	(440,630)	(453,849)
Net Revenues					1,445,641	1,489,634	1,533,681	1,579,691	1,627,082	1,675,894	1,726,171	1,777,956	1,831,295
Expenses													
Operating Expenses					537,408	553,531	570,137	587,241	604,656	623,004	641,694	660,945	680,773
Insurance					126,000	128,790	133,673	137,984	141,814	146,069	150,451	154,984	159,613
Taxes (Non Ad Valorem)					\$553	\$563	\$573	\$583	\$593	\$603	\$613	\$623	\$633
Replacement Reserve					\$921	\$1,053	\$1,185	\$1,317	\$1,449	\$1,581	\$1,713	\$1,845	\$1,977
Total Operating Expense					\$5,059	\$60,706	\$22,233	\$292,233	\$303,800	\$315,770	\$325,243	\$335,000	\$345,054
Net Operating Income													
Debt Service 1st mortgage					\$7,000,000								
DSC					0.51	0.53	0.56	0.58	0.70	0.72	0.74	0.76	0.79

Net cash flow	(186,727)	(175,160)	(163,190)	(153,717)	(143,959)	(133,909)	(123,568)	(112,996)	(101,914)	(90,603)	(78,952)	(66,952)	(54,591)
Forecast Assumptions													
Annual Rent Increase	3.00%												
Annual Operating Expense Growth	3.00%												
Vacancy Loss Rate	20.00%												
Annual Reserve Increase	3.00%												

Cash flow (1,656,735)

Summary Operating Budget - 90% Occupancy Option with \$7 Million in Debt

Cash flow	1,675,002
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**CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 4/11/2017

Agenda Category:

Subject: DISCUSSION AND DELIBERATION BY COUNCIL OF C.A.P. GOVERNMENT, INC. AND THE COLD STORAGE.

Recommendation/Motion:

Originating Dept	EXECUTIVE	Costs
User Dept.	EXECUTIVE	Funding Source
Advertised	No	Budget Account Number
Date		
Paper		
Affected Parties	Not Required	

Background/Summary:

Fiscal Years
Capital Expenditures
Operating Costs
External Revenues
Program Income (city)
In-kind Match (city)
Net Fiscal Impact
NO. Additional FTE Positions
(cumulative)

III. Review Comments

A. Finance Department Comments:

B. Purchasing/Intergovernmental Relations/Grants Comments:

C. Department Director Review:

Contract Start Date

Contract End Date

Renewal Start Date

Renewal End Date

Number of 12 month terms this renewal

Dollar Amount

Contractor Company Name

Contractor Contact

Contractor Address

Contractor Phone Number

Contractor Email

Type of Contract

Describe

REVIEWERS:

Department	Reviewer	Action	Date
City Manager	Mitchell, Dorothy	Approved	3/29/2017 - 3:53 PM

**CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 4/11/2017

Agenda Category:

Subject: MAYOR MASTERS APPOINTS NEW BOARD MEMBER TO THE RIVIERA BEACH HOUSING AUTHORITY.

Recommendation/Motion: RECOMMEND APPROVAL

Originating Dept	MAYOR	Costs	N/A
User Dept.	MAYOR	Funding Source	
Advertised	Yes	Budget Account Number	
Date			
Paper			
Affected Parties	Not Required		

Background/Summary:

THE RIVIERA BEACH HOUSING AUTHORITY BOARD DECISIONS ARE VITAL TO THE GROWTH AND DEVELOPMENT OF RIVIERA BEACH AND HOUSING INITIATIVES. HORACE TOWNS HAS BEEN WORKING WITH GOVERNMENT AND AGENCY ORGANIZATIONS THAT PROVIDE LOW INCOME FAMILIES IN URBAN AREAS, INCLUDING IN THE CITY OF RIVIERA BEACH. MR. TOWNS ALSO HAS MORE THAN A DECADE OF EXPERIENCE AND COMMUNITY INVOLVEMENT IN MUNICIPAL GOVERNMENT PUBLIC RELATIONS PROJECTS THROUGH HIS MEDIA AND ADVERTISING COMPANY, TOWNS GLOBAL GROUP. LLC.

Fiscal Years

Capital Expenditures

Operating Costs

External Revenues

Program Income (city)

In-kind Match (city)

Net Fiscal Impact

**NO. Additional FTE Positions
(cumulative)**

III. Review Comments

A. Finance Department Comments:

B. Purchasing/Intergovernmental Relations/Grants Comments:

C. Department Director Review:

Contract Start Date

Contract End Date

Renewal Start Date

Renewal End Date

Number of 12 month terms this renewal

Dollar Amount

Contractor Company Name

Contractor Contact

Contractor Address

Contractor Phone Number

Contractor Email

Type of Contract

Describe

ATTACHMENTS:

File Name	Description	Upload Date	Type
HoraceTowns.pdf	RBHA.HoraceTowns	3/22/2017	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
City Manager	Mitchell, Dorothy	Approved	3/29/2017 - 3:53 PM



RIVIERA BEACH HOUSING AUTHORITY
Building Excellence

APPLICATION FOR BOARD OF COMMISSIONERS

Please Note: Pursuant to 119.07 F.S. the information provided in this application is considered to be public record, except as provided by law.

APPOINTMENT

REAPPOINTMENT

Name: Horace Towns

Home Address: 3616 Wedgewood
Plaza Drive

City: Riviera Beach

State: FL Zip Code: 33404 Home phone No: 561-644-8494

Work Phone No.: 561-644-8494

E-mail Address: horacetowns@gmail.com

Are you currently serving on a City Board or Committee?

Yes

No ✓

If so please indicate name:

Date of Service(s):

Are you available for daytime meetings? ✓ yes

Evening meetings? ✓ yes

What would you hope to accomplish by participating if you are appointed?

I would like to help this Board reach all goals
and make this Board an impactful entity in Riviera Beach.
This Board is vital to the growth of Riviera Beach
and Housing initiatives.

College Field Study
St. Petersburg College Industrial Technology Public Works

Post College _____

Technical/Other _____

Are you registered and actively Vote in Palm Beach County? Yes ☒ No

Are you currently participating in civic or community activities? Yes ☒ No

If yes, explain: Dedicated a substantial amount of time
Volunteering for various voter registration drives.

If you desire, resumes may be attached; Florida Law may require you to file a Financial Disclosure Form, if so you will be notified upon appointment to the Board.

I understand the duties, rules and time commitment to the Riviera Beach Housing Authority to which I have applied:

Signature: _____

Date: 3-13-17

PLEASE RETURN APPLICATION TO: OFFICE OF THE MAYOR OF RIVIERA BEACH,
600 WEST BLUE HERON BLVD. RIVIERA BEACH, FL 33404

FOR USE BY THE CITY OF RIVIERA BEACH:

Appointment date: _____

Expiration date: _____

Present Employer: Towns Global Group, LLC Position: CEO

Address: 3616 wedgewood plaza City: Riviera Beach State: FL Zip: 33404

Profession: Media & Advertising Length: _____

How long have you practiced the above profession? 10 years

Preferred mailing address: _____

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Board of Commissioners?

Yes _____

No ☒

Not Sure _____

Please explain: _____

Riviera Beach Housing Authority mission is to provide housing for low and moderate income families in the City of Riviera Beach. Please give a brief explanation of your housing experience; if none, provide your experiences or skills in dealing with business or communication: _____

I have 14 years experience in Government.
I have a decade of experience working in municipal government with many Public Relations Projects. I have 3 years experience working with Habitat for Humanity providing homes for low income families in urban areas.

EDUCATIONAL BACKGROUND

Degree/Certificate Institution

Course of Study

High School
Suncoast

High School Diploma T. A. P. Program

College

Industrial Technology
Indian River State College

Stormwater Management

Horace Towns a lifetime resident of Riviera Beach, Florida is currently the owner of Towns Global Group. Towns Global Group was founded in 2014, and specializes in media, consulting, and marketing campaigns targeting outreach & awareness.

Horace Towns is best known for his career in municipal government where he held many high level positions in Public Works Administration. Mr. Towns has over a decade of experience in Stormwater Management, Capital Improvement Projects, Budget Writing with assets over one million dollars, and N.P.D.E.S. permitting which deals with the Clean Water Act under the United States E.P.A.

(Environmental Protection Agency).

Mr. Towns in his tenure with the City of Lake Worth worked on NSP2 (Neighborhood Stabilization Projects) projects with Habitat for Humanity to provide homes to participating families.

Career:

Towns Global Group - Manager.

2014 - Present

Innovative Bonding Services LLC - Director of Client Relations.

2016- Present

City of Lake Worth. - Stormwater/Streets Division Manager

2010- Aug 2015

Town of Lake Park - Operations

2003- 2008

EDUCATION:

Indian River State College

F.W.C.P.O.A. Industrial Engineering 1

Stormwater Management

2011 - 2014

Health Allied Institute

E.M.T. / Paramedic.

2009 - 2010

St. Petersburg College

Associate of Science (Public Works Admin)

2016-Present

Suncoast High School

High School Diploma - Magnet Program.

1990- 1994

PROFESSIONAL CERTIFICATIONS

United States Department of Homeland Security

(FEMA) NIMS IS-100, 200, 700, 800

Florida Water & Pollution Control Operators Associations -

Stormwater License (A) (B) (C)

Florida Stormwater Association - Level (1) (2)

Cobra -CIMS- I.T. Technician Inspection

F.D.E.P. Stormwater Erosion & Sediment Control Inspector

Florida Intermediate Work Zone Traffic Controller

N.P.D.E.S. Permit Coordinator & Permit Writer

National Pollutant Discharge Elimination System (NPDES) provision of Clean Water Act.

Permit issued by E.P.A

*NOTEWORTHY

The School District of Palm Beach County

Superintendent Task Force Member

CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2017

Agenda Category:

Subject: City Council nomination of Planning and Zoning Board Members.

Recommendation/Motion: City staff recommends that the City Council review and consider all applications provided for the Planning and Zoning Board.

Originating Dept	Community Development	Costs	N/A
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User Dept.	Community Development	Funding Source	N/A
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Advertised	No	Budget Account Number	N/A
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Date

Paper

Affected Parties Not Required

Background/Summary:

The Planning and Zoning Board is an advisory board to the City Council consisting of seven regular members and two alternate positions, with three year terms. Currently, one regular position is vacant and both alternate positions are vacant. Vacant positions can only be filled by nomination of board members by the City Council. Additionally, the term of the Chairperson, Ms. Rena James, is also expiring. Ms. James has requested an additional term from the City Council and she has been an asset to the Planning and Zoning Board since 2007.

The current Planning and Zoning Board Membership List has been attached for your review as well as the attendance rosters for 2016 and 2017. Since January 2016, there have been 14 scheduled Planning and Zoning Board Meetings. The current members, their district and meeting attendance has been provided below for your information:

Rena James, Chairperson, District 1 (2 absences out of 14 meetings)

Tradrick McCoy, Vice-Chairperson, District 1 (1 absences out of 14 meetings)

Zedrick Barber II, District 2 (9 absences out of 14 meetings)

Edward Kunuty, District 4 (3 absences out of 14 meetings)

Margaret Shepherd, District 2 (0 absences out of 14 meetings)

Julius Whigham, District 1 (2 absences out of 14 meetings)

After a thorough public notification process, including notification by way of water bill inserts and legal

ads, City staff has received multiple applications from interested volunteers for the vacant Board positions. A list of applicants has been provided below in alphabetical order as well as their district. Additionally, associated applications, resumes and letters of interest have been attached for your review.

1. Rena James (Current P&Z Board Member), District 1
2. Deborah Allen, District 1
3. Corey Blackwell, District 1
4. Anthony Brown, District 1
5. Marie Davis, District 4
6. Ralph Davis, District 2
7. James Gallon, District 3
8. Pamela Gibbs, District 1
9. Jon Gustafson, District 4
10. Gloria Koon, District 1
11. John Shillingburg, District 4
12. Christopher Zetwick, District 4

City staff recommends that the City Council review and consider all applications provided for the Planning and Zoning Board.

Fiscal Years	N/A
Capital Expenditures	N/A
Operating Costs	N/A
External Revenues	N/A
Program Income (city)	N/A
In-kind Match (city)	N/A
Net Fiscal Impact	N/A
NO. Additional FTE Positions (cumulative)	N/A

III. Review Comments

A. Finance Department Comments:

B. Purchasing/Intergovernmental Relations/Grants Comments:

C. Department Director Review:

Contract Start Date

Contract End Date

Renewal Start Date

Renewal End Date

Number of 12 month terms this renewal

Dollar Amount

Contractor Company Name

Contractor Contact

Contractor Address

Contractor Phone Number

Contractor Email

Type of Contract

Describe

ATTACHMENTS:

File Name	Description	Upload Date	Type
P_Z_Board_Membership_List_2017.pdf	P&Z Board Membership List 2017	3/29/2017	Backup Material
P_Z_Board_Attendance_Roster_2016_+_2017.pdf	P&Z Board Attendance Roster 2016 + 2017	3/29/2017	Backup Material
Rena_James.pdf	Rena James	3/29/2017	Backup Material
Deborah_Allen.pdf	Deborah Allen	3/29/2017	Backup Material
Corey_Blackwell.pdf	Corey Blackwell	3/29/2017	Backup Material
Anthony_Brown.pdf	Anthony Brown	3/29/2017	Backup Material
Marie_Davis.pdf	Marie Davis	3/29/2017	Backup Material
Ralph_Davis.pdf	Ralph Davis	3/29/2017	Backup Material
James_Gallon.pdf	James Gallon	3/29/2017	Backup Material
Pamela_Manning_Gibbs.pdf	Pamela Manning Gibbs	3/29/2017	Backup Material
Jon_Gustafson.pdf	Jon Gustafson	3/29/2017	Backup Material
10_-_Gloria_Koon_V2.pdf	Gloria Koon	4/6/2017	Backup Material
John_Shillingburg.pdf	John Shillingburg (Letter of Interest Only)	3/29/2017	Backup Material
Christopher_Zetwick.pdf	Christopher Zetwick	4/4/2017	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
City Manager	Mitchell, Dorothy	Approved	4/6/2017 - 4:21 PM



City of Riviera Beach

Planning and Zoning Board

Membership List - 2017

Rena James, Chairperson 3300 R.J. Hendley Avenue, Riviera Beach, FL 33404 (561) 667-7325 -C (561) 335-1608 -W suprwmn0007@yahoo.com	Term Expires: 3/2017 Reappointed: 3/2014 Appointed: 12/2007 Group: C District # 1
Tradrick McCoy, Vice-Chairperson 1465 W. 30th Street, Riviera Beach, FL 33404 (561) 650-6880 -W (561) 827-0365 mccoy843@gmail.com	Term Expires: 6/17/2018 Reappointed: 6/17/2015 Appointed: 4/2012 Group: B District # 1
Zedrick Barber II 2640 Lake Shore Drive #209, Riviera Beach, FL 33404 (561) 221-1708 zedrickbarberii@aol.com	Term Expires: 6/17/2018 Reappointed: N/A Appointed: 6/17/2015 Group: C District # 2
Edward Kunuty 1120 Powell Drive, Riviera Beach, FL 33404 (561) 842-1166 -H (561) 371-0158 -M (561) 842-8700-W kunuty@bellsouth.net	Term Expires: 6/17/2018 Reappointed: 6/17/2015 Appointed: 11/2002 Group: A District # 4
Margaret Shepherd 167 East 23rd Street, Riviera Beach, FL 33404 (561) 670-0509	Term Expires: 6/17/2018 Reappointed: N/A Appointed: 6/17/2015 Group: A District # 2
Julius Whigham 1602 West 36th Street, Riviera Beach, FL 33404 (561) 842-5021-H ramjaw1@yahoo.com	Term Expires: 6/17/2018 Reappointed: 6/17/2015 Appointed: 8/1999 Group: A District # 1
VACANT, Board Member	Term Expires: Reappointed: Appointed: Group:
VACANT, 1st Alternate	Term Expires: Reappointed: Appointed: Group:
VACANT, 2nd Alternate	Term Expires: Reappointed: Appointed: Group:

The Planning and Zoning Board meets on the second (and occasionally the fourth) Thursday of the month at 6:30 PM in the Riviera Beach Council Chambers, 600 West Blue Heron Boulevard, Riviera Beach, Florida 33404. For additional information, contact the Planning and Zoning Division at (561) 845-4060.

Updated: October, 2016

PLANNING AND ZONING BOARD ATTENDANCE ROSTER - (2017)

Member / Date	1/12	1/26	2/9	2/23	3/9	3/23														
Rena James Chairperson District # 1 Term Expires: 3/2017	#	P	P	#	#	A*														
Tradrick McCoy Vice-Chairperson District # 1 Term Expires: 6/2018	#	P	P	#	#	P*														
Zedrick Barber II District #2 Term Expires:6/17/2018	#	A	A	#	#	A*														
Edward Kunuty District #4 Term Expires:6/2018	#	P	A	#	#	P*														
Margaret Shepherd District # 3 Term Expires:6/17/2018	#	P	P	#	#	P*														
Julius Whigham, Sr. District # 1 Term Expires: 6/2018	#	P	P	#	#	A*														
Vacant District #1 Term Expires:6/17/2018	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant 1st Alternate District # Term Expires:	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant 2nd Alternate District # Term Expires:	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Chart Key: A = Absent, P = Present, # = Meeting Cancelation, N/R = Attendance Not Required, * = No Quorum *Revised: 3/29/2017 J.G.*

PLANNING AND ZONING BOARD ATTENDANCE ROSTER - (2016)

Member / Date	1/14	1/28	2/11	2/25	3/10	3/24	4/14	4/28	5/12	5/26	6/9	6/23	7/14	7/28	8/11	8/25	9/8	10/27	11/10	12/8	12/15
Rena James Chairperson District # 1 Term Expires: 3/2017	P	P	P	#	#	P	#	#	P	P	#	P	#	#	#	P	#	A	#	P	P
Tradrick McCoy Vice-Chairperson District # 1 Term Expires: 6/2018	P	P	P	#	#	A	#	#	P	P	#	P	#	#	#	P	#	P	#	P	P
Zedrick Barber II District #2 Term Expires:6/17/2018	P	P	A	#	#	P	#	#	A	A	#	A	#	#	#	A	#	P	#	A	P
Edward Kunuty District #4 Term Expires:6/2018	P	P	A	#	#	P	#	#	P	P	#	A	#	#	#	P	#	P	#	P	P
Margaret Shepherd District # 3 Term Expires:6/17/2018	P	P	P	#	#	P	#	#	P	P	#	P	#	#	#	P	#	P	#	P	P
Julius Whigham, Sr. District # 1 Term Expires: 6/2018	P	A	P	#	#	P	#	#	P	P	#	P	#	#	#	P	#	P	#	P	P
Vacant District #1 Term Expires:6/17/2018	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant 1st Alternate District # Term Expires:	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant 2nd Alternate District # Term Expires:	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Chart Key: A = Absent, P = Present, # = Meeting Cancelation, N/R = Attendance Not Required, * = No Quorum *Revised: 12/16/2016 M.V.*

Pediedra Rena James
3300 R. J. Hendley Avenue
Riviera Beach, FL 33404
561-542-0310 Home
561-355-1608 Work
Suprwmn0007@Gmail.com

February 27, 2017

City of Riviera Beach City Council
600 West Blue Heron Blvd.
Riviera Beach, FL 33404

Dear Council Members:

As a current member of the City of Riviera Beach's Planning & Zoning Board (representing District 1), I wish to take this opportunity to request reappointment to the board. My current appointment is set to expire next month, March 2017.

It is an honor to volunteer and I look forward to continuing my civic duty by serving the City and the citizens of Riviera Beach.

Sincerely,

Pediedra Rena James



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: Planning & Zoning

Name: Pediedra R James Home Address: 3300 R. J. Hendley Ave

City: Riviera Beach State: FL Zip: 33404 Home Phone No: 561-542-0310

Work Phone No: 561-355-1608 Email Address: suprwmn0007@gmail.com

Are you currently serving on a City Board or Committee? YES ☒ NO ☐

If so please indicate name: Planning & Zoning Date of Service(s): January 2008-PRESENT

Are you available for day time meetings ☒ evening meetings ☒

What would you hope to accomplish by participating if you are appointed?

Thoroughly review projects that aim to make Riviera Beach the best city to live, work
play. Deflect negative communications about the city in/outside our community.

Present Employer: Constitutional Tax Collector PBC Position: Client Advocate

Address: 301 N Olive Ave City: WPB State: FL Zip: 33404

Profession: Public Affairs Length: 19 years

How long have you practiced the above profession? I have 7 years in Public Affairs.

Preferred mailing address: _____

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES ☐ NO ☒ NOT SURE ()

Please explain:

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

Interprets, applies and ensures compliance with local codes, state laws, rules, regulations, standards, policies and procedures. Knowledge extends to property tax, business tax and tourist development tax collections.

Business background currently working in county government communications/public affairs.

Previous background in permitting, blue print reading and drafting for South Florida Water Management District.

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
Bachelor Degree	Northwood University	Business Administration

Are you registered and actively vote in Palm Beach County? YES ☒ NO ☐

Are you currently participating in civic or community activities YES ☒ NO ☐

If yes, explain: I am an active member of the community and other organizations for the betterment of citizens and youth.

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

<u>Pediedra R. James</u>	<u>February 27, 2017</u>
Signature	Date

How did you learn about the Advisory Board?

City's website ☐ Community group ☐ Newspaper ☐ Other ☒

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

Please return application and résumé to:

**Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404**

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: _____

Name: _____ Home Address: _____

City: _____ State: ____ Zip: _____ Home Phone No: _____

Work Phone No: _____ Email Address: _____

Are you currently serving on a City Board or Committee? YES () NO ()

If so please indicate name: _____ Date of Service(s): _____

Are you available for day time meetings () evening meetings ()

What would you hope to accomplish by participating if you are appointed?

Present Employer: _____ Position: _____

Address: _____ City: _____ State: ____ Zip: _____

Profession: _____ Length: _____

How long have you practiced the above profession? _____

Preferred mailing address: _____

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES () NO () NOT SURE ()

Please explain:

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
-----------------------	-------------	-----------------

Are you registered and actively vote in Palm Beach County? YES () NO ()

Are you currently participating in civic or community activities YES () NO ()

If yes, explain: _____

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

Signature

Date

How did you learn about the Advisory Board?

City's website () Community group () Newspaper () Other ()

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

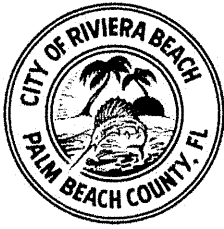
Please return application and résumé to:

**Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404**

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

RECEIVED
FEB - 3 2017
OFFICE OF THE CITY CLERK

Board Applying For: City of Riviera Beach Planning & Zoning Advisory Board

Name: Cory D. Blackwell Sr. Home Address: 5200 Edenwood Rd.
City: Riviera Beach State: FL Zip: 33418 Home Phone No: 561-841-7440
Work Phone No: 561-644-9225 Email Address: blackwell4973@yahoo.com

Are you currently serving on a City Board or Committee? YES () NO (X)

If so please indicate name: _____ Date of Service(s): _____

Are you available for day time meetings (Yes) evening meetings (Yes)

What would you hope to accomplish by participating if you are appointed?

Take advantage of any and all training opportunities.

Help make informative recommendations regarding the development and growth of our city.

Present Employer: Retired Position: Deputy Sheriff

Address: Palm Beach County Sheriff's Office City: _____ State: _____ Zip: _____

Profession: Law Enforcement Officer Length: 25 Years

How long have you practiced the above profession? Over 25 Years

Preferred mailing address: P.O. Box 9425 West Palm Beach FL. 33419

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES () NO (X) NOT SURE () Please explain:

2

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

Served 2 years on Riviera Beach Community Development Board (CDC)

Experience of reviewing Architecture & Land Development Plans

Extensive experience in Legal Research, Legal Terminology and Writing Legal Memorandums

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
<u>Bachelors of Science Legal Studies</u>	<u>Barry University</u>	<u>Legal Research & Legal Writing</u>
<u>Masters of Science Business Administration & Specialization Certification</u>	<u>Public Administration</u>	

Are you registered and actively vote in Palm Beach County? YES (X) NO ()

Are you currently participating in civic or community activities YES (X) NO ()

If yes, explain: Board President -Voter's League of Palm Beaches / Member -Together We Stand Democratic Club / Member – Palm Beach County DEC / Participant & Activist - Jay Ministries Community Talks Program

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

Carly Blackwell
Signature

02-03-2017
Date

How did you learn about the Advisory Board?

City's website () Community group () Newspaper () Other (X)

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

Please return application and résumé to:

**Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404**

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ *Date:* _____ *Expiration Date:* _____

Orientation Date: _____ *Notified by City Staff:* _____

Page 2
of 2



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F.S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: Planning and Zoning Board

Name: Anthony Brown Home Address: 1928 Gardenia Court

City: Riviera Beach State: FL Zip: 33404 Home Phone No: (561) 324-1250

Work Phone No: (561) 615-3988 Email Address: tony@brown-phillips.com

Are you currently serving on a City Board or Committee? YES () NO (✓)

If so please indicate name: _____ Date of Service(s) _____

Are you available for day time meetings (✓) evening meetings (✓)

What would you hope to accomplish by participating if you are appointed?

I am a long time resident of the City of Riviera Beach. It has always been my wish to give back to the community, and serving on this committee would be a perfect way to achieve that. I believe my twenty-six years as a registered land surveyor might be useful on this board so I therefore eagerly offer my services.

Present Employer: Brown & Phillips, Inc. Position: CEO

Address: 1860 Old Okeechobee Road, Suite 509 City: West Palm Beach State: FL Zip: 33409

Profession: Professional Land Surveyor Length: _____

How long have you practiced the above profession? July 1991 - Present

Preferred mailing address: 1928 Gardenia Court Riviera Beach, FL 33404

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES () NO (✓) NOT SURE ()

Please explain:

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

I have been an owner/manager of a Land Surveying business since March 1993.

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
Land Surveying and Mapping	College of Arts, Science and Technology, Jamaica	Professional Land Surveyor

Are you registered and actively Vote in Palm Beach County? YES (☒) NO (☐)

Are you currently participating in civic or community activities? YES (☒) NO (☐)

If yes, explain: I serve once or twice a month on the Village Baptist Church Food Drive

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

Anthony B.
Signature

2/28/17
Date

How did you learn about the Advisory Board?

City's website (☐) Community group (☐) Newspaper (☐) Other (☒)

If you desire, resume may be attached; Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to City Advisory Board.

Please return application and resume to:

**Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, Fl 33404**

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____



BROWN & PHILLIPS, Inc.
PROFESSIONAL SURVEYING SERVICES

ANTHONY ST. CLAIR BROWN, PLS
CHIEF EXECUTIVE OFFICER

Education:

College of Arts, Science and
Technology, Jamaica
Diploma in Land Surveying
And Mapping, 1981

Registrations:

Professional Land Surveyor,
Florida #4977

Affiliations:

American Congress of Surveying
and Mapping (ACSM)

Florida Land Surveyors Council

Awards:

Black Chamber of Commerce
Zenith Award 2015

SUMMARY OF QUALIFICATIONS

Anthony Brown is a Professional Land Surveyor with over 35 years of land surveying and project management experience. He has been Chief Executive Officer of Brown & Phillips for its 23 years in business and is responsible for the development and implementation of the firm's administrative policies and procedures, business development activities, and employee training programs. He also serves as the Principal in Charge of all field related assignments. As such, he is responsible for scheduling and performing field work, data gathering and research, and the scheduling and supervision of the field crews. One of his most important responsibilities is to perform quality reviews for all of the calculations and documents that are prepared in the office.

Over the years, he has been responsible for the preparation of numerous legal descriptions, boundary and topographic surveys, plats, parcel abandonment documents, condominium documents, record drawings and for performing construction layouts for utilities, roads, highways, buildings, and bridges.

Additionally, Mr. Brown possesses more than three years of experience in performing cadastral surveys for the government of Jamaica. He has performed hydrographic surveys of the ocean within 1/4 mile of the shore and geodetic surveys as part of the densification of triangulation network control surveys.

EXPERIENCE

Roebuck Road – SR 7 to Jog Road

Palm Beach County, FL

Brown & Phillips performed a roadway design survey which consisted of a 3.2 mile long proposed route through heavily wooded and swampy lands. A topographic survey and cross sections were performed along the route, as well as asbuilts, underground utility locations, wetland delineation and a complete tree survey.

City of Riviera Beach New Police Complex

Riviera Beach, FL

Brown & Phillips performed a boundary and topographic survey for the design of a new police complex and municipal center. The project included complete locations and tracing of storm and sanitary sewer lines, as well as field locating marked underground utilities.

Water Treatment Plant No. 9

Palm Beach County, FL

Brown & Phillips performed a boundary survey and lot combination to combine two adjoining parcels into one for future improvements to the site. A topographic survey was also performed that included cross sections and tying in all above ground features.

MARIE DAVIS
3001 LAKE DRIVE
RIVIERA BEACH, FL. 33404
Home: (561)842-4760
Cell: (561)309-4374

February 22, 2017

Office of the City Clerk, Riviera Beach
600 West Blue Heron Blvd.
Riviera Beach, FL 33404

RE: Application for Planning and Zoning Board

Dear Madam Clerk:

Please find enclosed my application dated February 21, 2017 for consideration as a Planning and Zoning board member.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marie Davis".

Marie H. Davis
Encls: as noted

By Hand Delivery



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: Planning and Zoning

Name: Marie Hope Davis Home Address: 3001 Lake Drive

City: Riviera Beach State: FL Zip: 33404 Home Phone No: 561-842-4760

Work Phone No: Cell: 561-309-4374 Email Address: mariedavis1@comcast.net

Are you currently serving on a City Board or Committee? YES ☐ NO ☒

If so please indicate name: _____ Date of Service(s): _____

Are you available for day time meetings ☒ evening meetings ☒

What would you hope to accomplish by participating if you are appointed?

Encourage P & Z participation in updating our Land Use Regulations for the betterment of

Create orientation program for new and alternate members to include a better understandi

Recommend workshop meetings when involving complex projects, to work more closely w

Present Employer: retired Position: _____

Address: _____ City: _____ State: _____ Zip: _____

Profession: _____ Length: _____

How long have you practiced the above profession? _____

Preferred mailing address: _____

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES ☐ NO ☒ NOT SURE ()

Please explain: N/A

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

See attached

EDUCATIONAL BACKGROUND

Degree or Certificate

Institution

Course of Study

See attached

Are you registered and actively vote in Palm Beach County? YES ☒ NO ☐

Are you currently participating in civic or community activities YES ☒ NO ☐

If yes, explain: Singer Island Civic Assoc., Palm Beach Civic Assoc., PEO Philanthropic Education Organization, Carson Scholars

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

Maria Davis
Signature

Feb. 21, 2017

Date

How did you learn about the Advisory Board?

City's website ☐ Community group ☐ Newspaper ☐ Other ☒

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

Please return application and résumé to:

Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____

MARIE DAVIS

3001 Lake Drive
Riviera Beach, Fl. 33404

Telephone: Home (561) 842-4760
Cell (561) 309-4374

February 22, 2017

WORK EXPERIENCE

Owner: Puff & Buff, Inc. Riviera Beach (pet grooming) 2005 – 2010

Executive Director- 1995 – 2003

Peggy Adams Animal Rescue League of the Palm Beaches, West Palm Beach, Florida

I was responsible for fundraising, planned giving, the day to day supervision of 65 plus, employees of shelter, clinic, thrift shop, and preparation and oversight of \$2,000, 000. budget.

Real Estate Salesman, Broker and Mortgage Broker, Palm Beach, Florida - 1980-1998

Law Office Manager and Research Assistant Palm Beach, Florida - 1976-1994

Law Office Receptionist and legal secretary Palm Beach, Florida - 1973-1976

Howard Antevil, Jeffrey Berin and Frederick H. Hope, P.A.

Display Advertising 1971-1973

Palm Beach Post, West Palm Beach, Florida.

CIVIC AND COMMUNITY EXPERIENCE

Carson Scholars 2014 – Current

This nationwide philanthropic organization was started 20+ years ago by Dr. and Mrs. Ben Carson in an effort introduce disadvantaged children to leisure reading, hoping to create a curiosity and love for reading, which is the first step out of poverty. This project offers Reading Rooms and scholarships to Title I schools. All funds raised remains here in our Palm Beach County community.

Reading Room recently placed at Mary McLeod Bethune School in Riviera Beach.

City of Riviera Beach-Planning & Zoning Board 2012-February, 2015.

Singer Island Civic Association 2011-current; Board member

Palm Beach Republican Club, Pres. a 501c4 organization focusing on education of its members

PEO 2005 – Current

A philanthropic educational organization where women celebrate the advancement of women; educate women through scholarships, grants, awards, loans, and stewardship of Cottey College, located in Nevada, Missouri; and motivate women to achieve their highest aspirations.

The Salvation Army 2007 and 2008

Christmas Ball Chairman, benefiting underprivileged children and adults, disaster relief.

Peggy Adams Animal Rescue League 1994 – Board member**The Architectural Commission member - 1989-1995**

Long Range Financial Planning 1981

Town of Palm Beach, Florida

EDUCATION

Palm Beach High School, West Palm Beach, Florida

Palm Beach Community College, Lake Worth, Florida

Associate of Science Degree in Law Enforcement

PERSONAL

Married to Zell Davis, Jr., three children, two grand-children



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: Zoning Board

Name: Ralph Davis Home Address: 470 W. 36th Street

City: Riviera Beach State: FL Zip: 33404-2211 Home Phone No: (561)845-1210

Work Phone No: (561)876-3853 Email Address: davis-ralph@comcast.net

Are you currently serving on a City Board or Committee? YES ☐ NO ☒

If so please indicate name: _____ Date of Service(s): _____

Are you available for day time meetings ☒ evening meetings ☒

What would you hope to accomplish by participating if you are appointed?

As an interested member of our community for 30+ years I would like to volunteer my time
to assist in the ongoing planning/zoning of our city. What has piqued my interest in seeking
and all the new growth in our city has cemented my resolve to be an active participant..

Present Employer: Retired Position: _____

Address: _____ City: _____ State: _____ Zip: _____

Profession: Retired Educator Length: _____

How long have you practiced the above profession? _____

Preferred mailing address: _____

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES ☐ NO ☒ NOT SURE ()
Please explain:

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

My experiences as a corporate manager, an interdisciplinary trainer, an entrepreneur, and an educator in Palm Beach County,
my strong communication skills, and my proven ability to work collaboratively within a multidisciplinary environment
have provided me the opportunity to better understand the challenges of managing our growth, improving our infrastructure, and further developing our city.

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
-----------------------	-------------	-----------------

Please see attached

Are you registered and actively vote in Palm Beach County? YES ☒ NO ☐

Are you currently participating in civic or community activities YES ☒ NO ☐

If yes, explain: RB Boys Choir, Revival Community Outreach Ministries

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:


Signature

3/23/17
Date

How did you learn about the Advisory Board?

City's website ☐ Community group ☐ Newspaper ☐ Other ☒

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

Please return application and résumé to:

Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____

RALPH DAVIS

470 W. 36TH Street

Riviera Beach, Fl 33404-2210

(561) 845-1210 (Residence)

(561) 876 – 3853 (Cellular)

E-mail – davis-ralph@comcast.net

EDUCATIONAL BACKGROUND

May 2009 – March 2011

University of Phoenix Online

Degree: Master of Arts in Education/Administration & Supervision

Major: Education Leadership

September 1967 – May 1971

Miles College

Birmingham, Alabama

Degree: Bachelors of Science

Major: Business Administration

CERTIFICATION

Florida Teachers Certificate # 1000983

CERTIFICATES

Internal Auditing – Calif. State Univ. CA

Credit Management – UCLA Extension - CA

Intermediate Credit – Southern Calif. Inst.

PROFESSIONAL EXPERIENCE

Teacher, 6th Grade Math – Howell L. Watkins Middle School

August 2010 – August 2014

- Establish and enforce rules for behavior and procedures for maintaining order among students.
- Adapt teaching methods and instructional materials to meet students' varying needs and interests.
- Gathers, analyzes and uses data from varied and multiple sources to form concepts and hypotheses, and to consider alternatives.
- Math instruction through lectures, discussions, and demonstrations.
- Prepare, administer, and grade tests and assignments in order to evaluate students' progress.
- Meet with parents and guardians to discuss their children's progress and their priorities for their children and their resource needs.
- Confer with parents or guardians, other teachers, counselors, in order to resolve students' behavior and academic problems.

Teacher, 5th Grade – Dr. Mary McLeod Bethune Elementary School

May 2005 – 2010

- Plan and conduct activities for a balanced program of instruction, develop work time that provides students with opportunities to observe, question and investigate.

- Maintain accurate, complete, and correct student records as required.
- Establish clear objectives for all lessons, units, and projects, and confer objectives to students.
- Enforce all administration policies and rules governing students.
- Prepare objectives and outlines for courses of study, following curriculum requirements of states and schools.
- Adapting lessons to different levels of learning within a group.

Financial Services Representative – MetLife Financial Services

February 2002 – 2005

- With laptop technology in the field, market and sale a comprehensive portfolio of top quality insurance and investment products.

President/Owner – Mail Boxes Etc. #3727

January 2000 – 2002

- Accountable for financial operation of the organization, budget preparation, administration, audit, accounting, and monthly closing for royalties. Prepare monthly and annual reports summarizing and forecasting company business activities and financial position, income, expenses, and earnings based on past, present, and expected operations. Supervises, leads, and supports staff of 3.
- Instrumental in improving operating hours to accept overflow from Post Office, thus increasing revenue by 14%.

Data Collection Technician – United States Post Office

April 1989 – 2000

- Gathers, analyzes and use data from various departments and stations to determine the timing of the mail.
- Scheduling, monitoring and administering exams as an Examination Specialist adhering to different regulations depending on whether the exam was in-service, open or veteran testing.
- Conduct various confidential tests given within P&DC.

Asst. Credit Manager – Voi Shan Aerospace

May 1981 – 1989

- Oversees from an administrative point of view the daily operation of the accounts receivables accounts.
- Monitoring of internal accounts, and the review of accounts payable for collection of past due accounts.

References: Available upon request

Ralph Davis
470 W. 36th Street
Riviera Beach, Florida 33404-2210

February 17, 2017

City of Riviera Beach
Department of Community Development
ATTN: Terrence Bailey, Director
600 W. Blue Heron Boulevard
Riviera Beach, Florida 33404

Mr. Bailey;

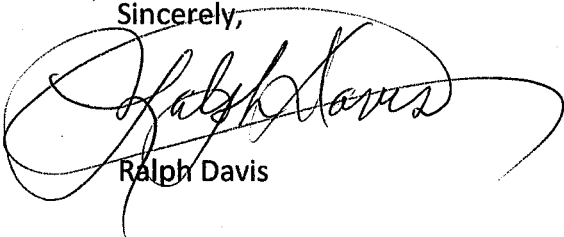
Please accept this as my "Letter of Interest" in serving on the Planning and Zoning Board. I have been a resident of Riviera Beach since 1990. I am currently a retired Educator from the Palm Beach County School District, (H.L. Watkins Middle School), and I am the treasurer at Revival Church of God.

I have come to know and love this community for its open and wonderful display of people. This is a beautiful community for families to live and grow. In these difficult, economic times, I feel compelled to perform my civic duties and assist in any way possible, to ensure our continued way of life.

As evident by the attached resume, I strongly feel those learned skills and experience, along with my passion to serve our community would be a definite asset for the City of Riviera Beach on the Planning and Zoning Board.

I thank you for your time and consideration for review of this letter and my credentials. I stand ready to assist our community.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph Davis", with a large, stylized flourish extending from the end of the signature.

Ralph Davis



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: Planning and Zoning Advisory Board

Name: James Gallon Home Address: 1325 W. 7th Street

City: Riviera Beach State: FL Zip: 33404 Home Phone No: 5618420872

Work Phone No: 5614348324 Email Address: 1gallon@comcast.net

Are you currently serving on a City Board or Committee? YES ☐ NO ☒

If so please indicate name: _____ Date of Service(s): _____

Are you available for day time meetings ☐ evening meetings ☒

What would you hope to accomplish by participating if you are appointed?

I would like to make sure we are getting the right businesses in our City that will bring jobs
and putting the residents first

Present Employer: School District of Palm Beach Co Position: IT Data Center Manager

Address: 3300 Forest Hill Blvd City: West Palm Beach State: FL Zip: 33406

Profession: Computers Length: 34 yrs

How long have you practiced the above profession? 32 yrs

Preferred mailing address: 1325 West 7th Street Riviera Beach, FL 33404

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES ☐ NO ☒ NOT SURE ()
Please explain:

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

None, I will need to learn everything

EDUCATIONAL BACKGROUND

Degree or Certificate

Institution

Course of Study

Certificate

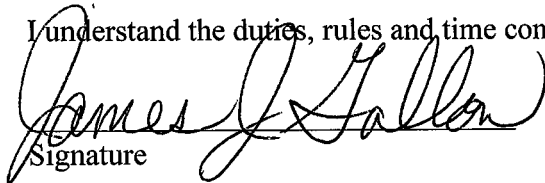
North Technical Education Cnt Business Education

Are you registered and actively vote in Palm Beach County? YES ☒ NO ☐

Are you currently participating in civic or community activities YES ☐ NO ☒

If yes, explain: _____

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:


Signature

3/9/17
Date

How did you learn about the Advisory Board?

City's website ☐ Community group ☐ Newspaper ☐ Other ☒

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

Please return application and résumé to:

**Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404**

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____

James Gallon

1325 West 7th Street ♦ Riviera Beach, Florida 33404 ♦ Home: (561) 842 - 0872 ♦ Cell: (561) 385 - 5686
1gallon@comcast.net

PROFESSIONAL OBJECTIVE

Manager- IT Solutions position offering versatile office management skills and proficiency leadership. Strong planner and problem solver who readily adapts to change, works independently and exceeds expectations. Able to juggle multiple priorities and meet tight deadlines without compromising quality.

QUALIFICATION SUMMARY

- Great customer service skills, motivated team player.
- Good communication and writing skills.
- Strong organizational and leadership skills.

EDUCATION

NORTH SHORE HIGH SCHOOL, WEST PALM BEACH, FLORIDA

- **High School Completion**, 1976 – 1979. General course curriculum was followed.

NORTH TECHNICAL EDUCATION CENTER, RIVIERA BEACH, FLORIDA

- **Technical School Completion**, 1981 – 1983.

SUBJECT OF STUDY

Business Education: Curriculum courses included: TYPING, OFFICE MACHINES, BOOKKEEPING/ACCOUNTING, DBASE III PLUS.

RELEVANT COURSES

- DB2 SYSTEM OPERATOR TRAINING
- MVS/ESA OPERATOR TRAINING
- ITIL, LIQUID OFFICE
- APC TRAINING
- MICROSOFT WORD 2007
- PEOPLETOOLS I
- PEOPLETOOLS II – ACCELERATED
- IBM TIVOLI STORAGE MANAGER 5.3 OPERATIONS
- NETWORK + CERTIFICATION
- RISING LEADERS CLASS

EMPLOYMENT HISTORY

THE SCHOOL DISTRICT OF PALM BEACH COUNTY, 3300 Forest Hill Boulevard, West Palm Beach, Florida 33406

OPERATOR, SYSTEMS OPERATOR, SECOND SHIFT SUPERVISOR (1983 - Present)

- Coordinates all system operational requests.
- Supervises the scheduling of daily activities.
- Monitor of subordinate performance and the distribution of work among subordinate personnel.
- Plan shift schedule and assignments, evaluates problems and take appropriate action to have problem corrected.

REFERENCES

Excellent personal and professional references will be provided on request.

Pamela Manning Gibbs

1080 Center Stone Lane ♦ Riviera Beach, FL 33404

Cell: 561-282-8724 ♦ pmghotmail@yahoo.com

CITY OF RIVIERA BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
ATTN: TERRANCE BAILEY, DIRECTOR
600 W. BLUE HERON BOULEVARD
RIVIERA BEACH, FLORIDA 33404

March 2, 2017

Dear Mr. Bailey,

The purpose of this letter is to inform you that I am showing interest in serving as a member on the Planning and Zoning Board. I am a resident of Riviera Beach. I love my city and would like to see continued growth. Having served my community in the law enforcement capacity, I would love to serve in a different capacity and I feel this would be a great start for me to learn the inter-workings of this great governmental institute.

I have been a Law Enforcement Officer for the past twenty-three years. I have extensive experience in group work, problem-solving, crisis intervention incidents, working with youths and adults, report preparation (writing), productivity improvement, training, community outreach programs, office administration, scheduling, and payroll. I also have experience as a Licensed Real Estate Representative, with sales totaling in the millions. As a Real Estate Representative, I am responsible for writing contracts, making sure that escrow payments are submitted in a timely manner, coordinating the scheduling of various inspections, appraisals, and closing dates.

Through my experience, I was able to achieve experience with working in controlled and uncontrolled environments, creating and organizing schedules for employees, systematized events, reshaping training programs, improving work ethics and accountability, building relationships, creating environments that are safe and conducive for learning, sharpening my writing, people, and technical skills and I have extensive situational experience with the ability to handle conflicts and crisis.

I have excellent communication and interpersonal skills. I am able to multi-task and I am capable of setting and closing time oriented projects, goals, and day-to-day tasks. I have used my people skills to assist me with community networks and investigative skills. I pride myself on being capable of looking at a situation from different aspects, while staying within the set guidelines. With my leadership skills, law enforcement background, real estate background, and various church leadership positions, I am able to work in various types of situations. Having been a Sergeant with the Palm Beach County

School District, I know the importance of being organized, responsible, professional, and detail oriented, which are needed for this position.

I am confident you'll find me a good fit for your needs as a Planning and Zoning Board Member. I have also attached a copy of my resume for your review. Please contact me by phone or email at a convenient time for you so that we may set up an in-person meeting. I look forward to hearing from you and thank you so much for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pamela', with a stylized flourish extending to the right.

Pamela Manning Gibbs



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F.S. the information provided in this application is considered to be public record, except as provided by law

Board Applying For: Planning and Zoning

Name: Pamela M. Gibbs Home Address: 1080 Center Stone Lane

City: Riviera Beach State: FL Zip Code: 33404 Home Phone No: (561) 282-8724

Work Phone No: _____ Email Address: pmg@hotmail@yahoo.com

Are you currently serving on a City Board or Committee? (YES) (NO)

If so please indicate name: _____ Date of Service(s) _____

Are you available for day time meetings () evening meetings (X)

What would you hope to accomplish by participating if you are appointed?

To assist in the continued growth of the plans for the City of Riviera Beach. To learn the inter-workings of the City's developmental process and progress.

Present Employer: Palm Beach City Sheriff's Office Position: Deputy Sheriff

Address: 3228 Gun Club Rd. City: WPB State: FL Zip: 33406

Profession: Law Enforcement Length: 9 yrs.

How long have you practiced the above profession? 23 yrs.

Preferred mailing address: 1080 Center Stone Lane Riviera Beach, FL 33404

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? (YES) (NO) (NOT SURE)

Please explain: _____

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

Report Preparation, Productivity improvement, training, writing contracts, inspections, Appraisals, Scheduling Systematized events, building relationships, Project goals, Group Work.

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
Master of Science	PBA	Organizational Leadership
Bachelor of Science	PBA	Organizational Management
Associate of Arts	PBCC	Business Admin. & Mgmt.

Are you registered and actively Vote in Palm Beach County?

(YES)

(NO)

Are you currently participating in civic or community activities?

(YES)

(NO)

If yes, explain: _____

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

Amelia J. Gibbs

Signature

March 2, 2017

Date

How did you learn about the Advisory Board?

City's website () Community group () Newspaper () Other (✓)

If you desire, you may be contacted by phone or mail to discuss your application. If you are selected for the Advisory Board, you will be notified by phone or mail to the City of Riviera Beach.

Please return application and resume to:

Office of the City Clerk

600 West Blue Heron Blvd.

Riviera Beach, FL 33404

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____

Pamela Manning Gibbs

1080 Center Stone Lane ♦ Riviera Beach, FL 33404 ♦ 561-282-8724 ♦ pmghotmail@yahoo.com

EMPLOYMENT HISTORY:

Palm Beach County Sheriff's Department

Deputy Sheriff/Courtroom Security

05/08 to Present

Main Courthouse

205 North Dixie Highway, West Palm Beach, Florida 33401

Salary: \$76,836.00/year 40 hours/week

Supervisor: Sergeant Trent Crossen, (561) 355-6488, may be contacted

- Provide and maintain security for Circuit and/ Civil Judge/Magistrate for the 15th Judicial Circuit for Palm Beach County.
- Assists in the implementation for the safety of persons in, on, and around the premises of the Main Judicial Courthouse, Juvenile Courthouse and Governmental Facility.
- Strategically assess and train in the areas of surveillance for critical areas of the courthouse.
- Responsible for the transportation of prisoners/inmates through the secured infrastructure within the courthouse.
- Responsible for the safety of jurors or protected person.
- Take into custody/remand individuals convicted of crimes.
- Eagle Academy as a Drill Instructor.
- Responsible for boys and girls ages 13-18, who were on the verge of criminal behavior.
- Patrolled Business Sector in the City of Belle Glade.
- Provided security for the citizens of Palm Beach County.
- Assist in investigations and/or front line patrol.
- Participated with the security/welfare check of individuals in the SPOT (Sexual Predator Offender Tracking) unit.
- Traffic enforcement.
- Conducts FIR's (Field Interview Reports).
- Familiarization with high crime areas.
- Apprehended suspects on weekly basis with outstanding warrants.
- Assist with re-writing the Standard Operating Procedure Manual for Courtroom Security Training Program
- Unit Training Officer

Palm Beach County School District Police Department

Sergeant/Field Training Officer

08/99 to 05/08

3330 Suite-B127 Forest Hill Blvd., West Palm Beach, Florida 33406

Salary: \$56,500/year 40 hours/week

Supervisor: Commander Mark Baker, (561)434-8700

- Led and supervised a team of 6 officers and 7 school sites, ranging from elementary to high school for the safety of staff, students, and parents.
- Served on a team with other supervisors with the restructuring of the Field Training Program and Rubric terminology.
- Created and responsible for the CPTED (Crime Prevention Through Environmental Design) reports for annual safety manual.

- Responsible for Annual Employment Evaluations/Appraisals for all team members under my command.
- Responsible for summer training to police officers on updated laws/training/curriculum for the State of Florida and the School District of Palm Beach County.

Mangonia Park Public Safety Department

Police Officer/Field Training Officer/Gang Unit Liaison

10/94 to 08/99

1755 E. Tiffany Drive, West Palm Beach, Florida 33407

Salary: \$49,000/year 40 hours/week

- Responsible for the training of new employees, photo log entries and custody of evidence.
- Liaison between the business owners, command staff and city officials.
- Served as an active member of the (MAGTF) Multi-Agency Gang Task Force with the identification and apprehension of local and county gang members.

EDUCATION:

Palm Beach Atlantic University

West Palm Beach, Florida

Master of Science, Organizational Leadership, GPA:3.92/4.0

December 2011

Palm Beach Atlantic University

West Palm Beach, Florida

Bachelor of Science: Organizational Management-Magna Cum Laude, GPA: 3.89/4.0

December 2002

Palm Beach Community College

Lake Worth, Florida

Associate of Arts: Business Administration and Management, GPA: 3.00/4.0

July 1996

TRAINING:

Palm Beach State College Criminal Justice Institute, Lake Worth, Florida- September 2004

CERTIFICATIONS:

ICS100- Introduction to Incident Command Systems, ICS200- Single Resources & Incident Action Command System, ICS 700-National Incident Management Systems, ICS 300- NIMS Complaint Incident Command System, Terrorist Threat, Hostage Negotiation, Crisis Intervention, Law Enforcement Prevention and Deterrence of Terrorist Acts, CMS Instructor Techniques, Attorney General Crime Prevention Practitioner, Field Training Officer

COMPUTER SKILLS:

PC and Panasonic Operating Systems, Microsoft Word, PowerPoint, Outlook, Office, Internet

OTHER SKILLS:

Glock 40mm, Glock 9mm, Glock 27mm, Remington Shotgun, Pepper Ball Gun, Taser Cam

LICENSURES:

Florida Real Estate License, 2001

Florida Notary/Signing, 2013

Chaplain, 2016

REFERENCES: Available upon request.



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: _____

Name: _____ Home Address: _____

City: _____ State: ____ Zip: _____ Home Phone No: _____

Work Phone No: _____ Email Address: _____

Are you currently serving on a City Board or Committee? YES () NO ()

If so please indicate name: _____ Date of Service(s): _____

Are you available for day time meetings () evening meetings ()

What would you hope to accomplish by participating if you are appointed?

Present Employer: _____ Position: _____

Address: _____ City: _____ State: ____ Zip: _____

Profession: _____ Length: _____

How long have you practiced the above profession? _____

Preferred mailing address: _____

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES () NO () NOT SURE ()

Please explain:

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
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Are you registered and actively vote in Palm Beach County? YES () NO ()

Are you currently participating in civic or community activities YES () NO ()

If yes, explain: _____

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

Signature

Date

How did you learn about the Advisory Board?

City's website () Community group () Newspaper () Other ()

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

Please return application and résumé to:

**Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404**

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____

Jon M. Gustafson

1211 Morse Blvd • Singer Island, FL 33404 • Phone (561) 301-0469
E-mail jon.m.gustafson@gmail.com • <https://www.linkedin.com/in/jonmgustafson>

Sales	Logistics	Project Management	Risk Management	Shipyard	Engineering	Design	Safety	Software	Integration
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Highly accomplished professional with a proven record of developing solutions designed to deliver results. Forward thinking team player who focuses on big picture objectives and initiatives. Passion for continuous improvement through enhanced processes and systems.

- Successful sales and contract negotiations for project budgets up to \$5,000,000
- Managed a daily, high energy production meeting ensuring schedule compliance on up to 35 simultaneous projects
- Developed state of art yacht monitoring and control system with complete functionality from integrated bridge
- Board of Directors, maritime operations Port of Palm Beach and Lake Worth Lagoon

Professional Experience

Delta T Systems - Riviera Beach, Florida

2015 – 2016

Engine Room Ventilation Experts

Application Sales Manager

Oversee Delta T Systems national and international engineered marine engine room ventilation sales team. Establish and adjust selling prices by monitoring costs, competition, and supply and demand. Set sales objectives by forecasting and developing annual sales quotas. Maintain sales volume and selling price by keeping current with changing trends, new product design and economic indicators.

- Substantially increased annual sales from 3.6 million to 5 million in 2015
- Manage, coach and mentor 18 team sales and production members including outside representatives
- Direct the distribution with marketing strategy and planning
- Streamline communication internal from sales, engineering, production, final QC, and expediting
- Created customer service department

Rybovich Boat Company - West Palm Beach, Florida

2011 – 2015

Mega-Yacht repair facility; US\$65M revenue 2014, 330 employees

Shipyard Logistics Manager

Recruited by Senior Operations Executive as a Project Manager for up to 40 projects per year ranging in scope from \$10,000 to over \$5,000,000. Successfully met the contract requirements including delivery date, budget and class requirements. Developed company's project scheduling system to encompass all aspects from ship check to delivery with an emphasis on following a formal project management process.

- Launched a daily production meeting with project and trade management teams to provide visibility of critical path on each project and any potential conflicts.
- Implemented a vessel slip assignment system to ensure the maximization of labor efficiency
- Developed project management process flow for all change orders to ensure schedule integrity
- Implemented web based proprietary scheduling program improving on time delivery
- Provided long term and short term billable hours forecasting to senior management
- Integrated change order sales scheduling program to meet on time delivery

Northeast Marine Solutions - Newport, Rhode Island

2005 – 2011

Yacht Management Company

Owner / Operator

Startup company providing services in design, management and maintenance on new and used yachts. With practical, hands on experience, offered innovative solutions for any challenge, allowing projects to flow smoothly ensuring on time delivery, high quality and cost effectiveness.

- Developed design, budget and schedule for the construction of a 42 meter power yacht
- Designed and managed the construction of a state of the art, high speed yacht monitoring and control system
- Managed the mechanical and electrical refit of S/Y Sovereignty
- Designed and managed transom extensions and fluid service systems to class standards for multiple yachts
- Sales and contract negotiation

S/Y 12 Meter Freedom - Newport, Rhode Island

2003 – 2005

Sailor

Participated on the racing team of a 12-meter racing yacht that was the winner of the 1980 America's cup defeating the challenging yacht Australia.

Managed paint and systems refit. Conducted all yacht maintenance during racing periods and recruited a mixed team of professional and non-professional sailors for multi trophy race program.

- 2005 Second place winner 12 meter World Championship
- 2004 Second Place winner 12 meter North American Championship Modern Class

Palmer Johnson Yachts - Savannah, Georgia

2001 - 2003

*Yacht Refit Facility***Designer Engineer**

Supervised up to 6 engineers and 25 skilled laborers to affect efficient solutions in a variety of situations on many power and sailing yachts including engineering, helm design and integration, drive train & system calculations and sea trial test procedure.

- Responsible for developing all vessel docking plans
- Managed new build of 102' composite motor yacht designed and built to class standards
- Managed the new build of a 96' aluminum motor yacht designed and built to class standards
- Awarded the 2001 Showboat Magazine yacht refit of the year award for M/Y Charisma

Education:

Florida Atlantic University, Boca Raton, Florida

Fall - 2013

Executive Certificate in Project Management

Nova Southeastern University, Palm Beach Gardens, Florida

Spring - 2013

Essentials of Strategic Project Management

The Landing School, Kennebunkport, Maine

2000 – 2001

Yacht Design Program accredited by the Accrediting Commission of Career Schools and Colleges of Technology

Roger Williams University, Bristol, Rhode Island

1996 – 2000

Mechanical Engineering

Volunteer:

Singer Island Civic Association (SICA) - Singer Island, Florida

Present

501(c) organization, 2300 members

Board Member, Maritime Operations

SICA was formed in 1967 by a group of citizens, with the objective of fostering a spirit of goodwill and cooperation for the mutual benefit of the residents of Singer Island and the community in which they reside. We work together to preserve the unique character of our island home and to enhance the quality of life of all members of the Singer Island community.

- Protecting our eco-system ocean beaches / dune erosion and Intra-coastal waterway
- Port of Palm Beach and Lake Worth Lagoon responsible coastal development
- Help shape and enforce proper zoning laws and regulations for the safety and security
- Riviera Beach government accountability

Jon M. Gustafson

Professional References

Draga Lindblom Secretary; Singer Island Civic Association, 2655 N Ocean Drive, Suite 309, Singer Island, FL 33404
Email: dlindblom@singerislandcivic.org

Jeffery Bowles Technical Director; Donald L. Blount and Associates; 870 Greenbrier Circle # 600, Chesapeake, VA 23320
Office (757) 545-3700 Email: jbowles@dlba-inc.com

Lazaro Roig Account Manager; Rybovich; 4200 North Flagler Drive, West Palm Beach, FL 33401
Office (561) 840-8308 Email: lroig@rybovich.com

Doug West President; Lauderdale Marine Center, 2001 SW 20th Street, Suite 102 Ft. Lauderdale, FL 33315
Office (954) 713-0333 Email: douglasmwest@comcast.net

Quoted LinkedIn Recommendations

"Jon's communication skills and straight to the point approach, kept the entire team informed and was extremely beneficial to our company. Jon's Big Picture view and forward thinking is second to none. He would be an asset to any company."

Anthony Matherly

"Invaluable opportunist is the phrase that comes to the mind when I think about Jon Gustafson. I've had the pleasure of knowing Jon for the last few years during which he has helped me transcend through the many technical challenges I've faced. I've received extensive lessons from Jon, on software, programs, Systems and Analytical report generation. He has an undeniably vast variety of knowledge and an innate ability to teach. Jon Gustafson would be a true asset to any Organization"

Alesha Adair

"Jon is an outstanding, straight-to-the-point problem solver and seems to thrive when decisions need to be made quickly. I would want him on any team I am a part of."

Jason Bone, PE

"Jon is meticulous individual with great attention to detail. I have worked with him at Rybovich for some time and enjoyed every minute. He can juggle multiple scheduling applications ensuring all our customer are treated professionally. Able to lead high energy production meetings with numerous "Alpha" individuals in attendance. He is a great team Player"

Eric Hruska

"During our tenure together at Rybovich, Jon was asked to develop and implement a project scheduling system to support the Project management Process. Jon took on the endeavor without hesitation and built a robust system that was used to plan, forecast and manage every project. Thanks to Jon Rybovich was able to make firm schedule commitments to every customer with confidence. Jon is very knowledgeable and committed professional who would be an asset to any organization"

Doug West

Please see my LinkedIn profiles for additional recommendations



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F. S. the information provided in this application is considered to be public record, except as provided by law.

Board Applying For: Planning & Zoning Board
Name: Dr. Gloria Koon, JD Home Address: 3017 - Ave R
City: Riv. Bch State: FL Zip: 33404 Home Phone No: 561-844-6488
Work Phone No: N/A Email Address: N/A

Are you currently serving on a City Board or Committee?

YES ☐

NO ☒

If so please indicate name: _____

Date of Service(s): _____

Are you available for day time meetings ☒

evening meetings ☒

What would you hope to accomplish by participating if you are appointed?

To make and continue to make this City
more prosperous and progressive and more
safe place to live and work and play.

Present Employer: Retired

Position: _____

Address: _____ City: _____ State: _____ Zip: _____

Profession: _____ Length: _____

How long have you practiced the above profession?

Retired from US Gov't - 3 1/2 years

Preferred mailing address: Same as above

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? YES ☐ NO ☒ NOT SURE ()

Please explain:

I am a retired lawyer and Federal
Investigator for US Government.

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

In my experience as a federal investigator I enforced ¹¹⁵ civil rights laws. I conducted interviews, analyzed documents and negotiated federal agreements for all employers and employees.

EDUCATIONAL BACKGROUND

Degree or Certificate	Institution	Course of Study
<i>Bachelor's Science Degree</i>	<i>Tennessee State Univ.</i>	<i>Political Science</i>
<i>Juris Doctor</i>	<i>Miles School of Law</i>	<i>American Law</i>

Are you registered and actively vote in Palm Beach County? YES ☒ NO ☐

Are you currently participating in civic or community activities YES ☐ NO ☒

If yes, explain: _____

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

P.S. Please mail duties, rules to Advisory Board to my address.

Signature *Dr. Gloria Jackson* Date *3/20/2017*

How did you learn about the Advisory Board?

City's website ☐ Community group ☐ Newspaper ☐ Other ☒

If you desire, a résumé may be attached. Florida Law may require you to file a Financial Disclosure Form. If so, you will be notified upon appointment to the City Advisory Board.

Please return application and résumé to:

Office of the City Clerk
600 West Blue Heron Blvd,
Riviera Beach, FL 33404

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff: _____

Dr. Gloria J. Koon

Feb 22, 2017

To: Mr. Terrance Bailey, Director
Dept of Community Development
City of Riviera Beach
From: Dr. Gloria J. Koon, J.D.
Re: Interest in serving on
Planning & Zoning Board for
City of Riviera Beach

This note is written to
advise I am interested
in serving on the above
board. Please forward an
application for consideration
to my address of:

3017- Ave R
Riviera Beach, Fla

Thank you. 33404-3594

Landline 844-6468-

2-18-17

Dear Mr Bailey

yes, I would like to serve.
In past I was on Housing Bd
and Board of Adjustments.

I have lived in RB 45 years
and my back ground is finance.

Sincerely

John Shulzberg

5196 N Ocean Dr

Riv Beach FL

33404

P.S Please forgive tremors.

March 30, 2017

Mr. Terrence Bailey
City of Riviera Beach
Department of Community Development
Riviera Beach, FL 33404

RECEIVED

MAR 31 REC'D

2017
OFFICE OF THE CITY CLERK

Dear Terrence:

I received your letter for an open position on the City's Planning and Zoning Board. I would like to be considered for that position.

I have over 20 years' experience as an owner of a structural engineering firm with offices in Pompano Beach, FL and North Palm Beach, FL. I am currently working on, among multiple other projects, a large townhouse project in Coconut Creek, FL where we serve as the designer of record for the entire project. Part of my responsibilities on this project was getting Architectural Review approval for the entire project by the City of Coconut Creek Zoning Department. I am also responsible for all design aspects of the project excluding Civil, HVAC and site work.

Construction, Inc. a few years ago where I built single family homes and additions for approximately seven years.

I currently serve my community of Yacht Harbor Manor as the President of the association. Before that I served my community of Yacht Harbor Manor as the Vice President for four years.

I have enclosed my resume of sample projects I have worked on. If you have any questions or comments please feel free to call me.

Thank you for your consideration.

Christopher Zetwick
1060 Singer Drive
Riviera Beach, FL 33404
561-408-0780

Christopher J. Zetwick
Vice President



440 East Sample Road, Suite 207
Pompano Beach, Florida 33064
T: 954-781-5399 F: 954-781-0806

Mr. Zetwick is an owner of **structural systems, inc.** with twenty years professional experience in project management; structural design, architectural design, inspection services, forensic inspection and construction administration. Representative project he has completed are summarized below.

In The Pines Townhomes

Architectural review board approval process and full building plans including, architectural, structural, plumbing and electrical plans for 11 townhomes buildings with 66 units. Also full building plans for a pool cabana, gate house entry tower, site walls and trellis currently being constructed in Coconut Creek, FL. Working with zoning, building, electrical, and plumbing city plan review staff. We are also providing structural inspection for the project.

Alcorenese USA

Complete structural plans and inspection for a new 30,000 SF warehouse and a 20,000 SF showroom renovation. Steel joist, tie beam and tie column construction in Dade County, FL. High Velocity Hurricane zone building design.

Bennett Auto Supply

Structural design of one bar joist and metal roof deck commercial building in Coral Springs, FL

Klemow Organization

Complete structural analysis, building design plans and structural inspections for 60 single one and two story single family homes, 120 two story townhomes and two 3 story commercial buildings in Davie, FL

Forest Ridge Community Development

Complete structural analysis and inspection for one and two story residences in Broward and Palm Beach County. High Velocity Hurricane zone building design.

Transeastern Homes

Complete structural analysis and inspection for one and two story residences. Engineered unit masonry construction with Hambro floor system. Coral Springs project. High Velocity Hurricane zone building design.

EDUCATION

BS in Ocean Engineering
Ocean Structures
Florida Atlantic University 1995

BS in Business Administration
Bowling Green State University 1990

CERTIFICATION

Florida EIT #640027
Structural Masonry Inspector, No.SMI-895
Certified Building Contractor CBC1250342 expired



APPLICATION FOR CITY OF RIVIERA BEACH ADVISORY BOARD

Please Note: Pursuant to 119.07 F.S. the information provided in this application is considered to be public record, except as provided by law

Board Applying For: Planning and Zoning Board

Name: Christopher Zetwick **Home Address:** 1060 Singer Drive

City: Riviera Beach **State:** FL **Zip Code:** 33404 **Home Phone No:** 561-881-0440

Work Phone No: 561-408-0789 **Email Address:** chriszetwick@gmail.com

Are you currently serving on a City Board or Committee? (YES) (NO) no

If so please indicate name: _____ **Date of Service(s)** _____

Are you available for day time meetings () yes **evening meetings () yes**

What would you hope to accomplish by participating if you are appointed?

I would like to help my City foster reasonable and sustainable growth for the future.

Present Employer: Structural Systems, Inc **Position:** Co-Owner/ VP

Address: 636 US Hwy #1 Suite 114 **City:** North Palm Bch **State:** FL **Zip:** 33408

Profession: Structural Engineer **Length:** 17 Years

How long have you practiced the above profession? 21 Years

Preferred mailing address: chriszetwick@gmail.com

Could your occupation or employment present a conflict of interest on municipal subject matters discussed or decided upon by the Advisory Board? (YES) (NO) NO (NOT SURE)

Please explain: _____

Please explain your knowledge, experience, and interest in municipal functions; municipal charter, financing, Florida Constitution, and Florida Statutes pertaining to municipal law; if none, provide your experiences or skills in dealing with business or communication:

My company provides single family and mutli-family full design plans. We provide site plans, showing over all set backs, mean and overall building heights and previous and impervious area calculations. We also coordinate with Civil Engineers and Landscape Architect for the overall site design.

EDUCATIONAL BACKGROUND

<i>Degree or Certificate</i>	<i>Institution</i>	<i>Course of Study</i>
Bachelor of Science in Ocean Engineering	FAU	Structural Engineering
Bachelor of Science	Bpwling Green State University	Marketing

Are you registered and actively Vote in Palm Beach County? (YES) Yes (NO)

Are you currently participating in civic or community activities? (YES) Yes (NO)

If yes, explain: President of Yacht Harbor Manor HOA

I understand the duties, rules and time commitment to the Advisory Board to which I have applied:

8
Signature

3-31-2017
Date

How did you learn about the Advisory Board?

City's website () Community group () Newspaper () Other ☒ Water bill

(If your site, resume may be attached, Florida law may require you to fill a financial disclosure form)
(If you will be notified upon appointment to city Advisory Board)

Please return application and resume to:

Office of the City Clerk

600 West Blue Heron Blvd.

Riviera Beach, FL 33404

FOR USE BY CITY OF RIVIERA BEACH

Appointment by: _____ Date: _____ Expiration Date: _____

Orientation Date: _____ Notified by City Staff _____