

**Redevelopment Agreement**

**among**

**The City of Jacksonville,**

**The Downtown Investment Authority,**

**and**

**RD River City Brewery, LLC**

## REDEVELOPMENT AGREEMENT

This **REDEVELOPMENT AGREEMENT** (this “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2021 (the “Effective Date”), between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (the “City”), the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City (the “DIA”) and **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company (the “Developer”).

### Article 1.

#### PRELIMINARY STATEMENTS

##### 1.1 The Project; Incentives.

(a) The Developer and/or their principals and Affiliates (defined below) have submitted a proposal to the DIA (the “Proposal”) to redevelop that certain 3.43 acres of City-owned real property and associated parking lot (the “Property”), known generally as the “River City Brewing Company” site, currently encumbered by that certain ground lease (as amended, “Lease”) entered into between the City and Maritime Concepts, LLC (“Maritime”), dated August 1, 1998 and located in Jacksonville, Florida, within the Southside Community Redevelopment Area. An Affiliate of Developer has entered into an agreement with Maritime whereby Maritime will convey its interest in the Lease to Developer, or its Affiliate (the “Lease PSA”). Upon termination of the Lease by Developer, the City will convey a portion of the Property as described on **Exhibit A** attached hereto to the Developer, together with certain City-owned parcels adjacent to the Property and excluding the Riverwalk Parcel (as defined below) (collectively, as conveyed, the “Project Parcel”). Thereafter, the Developer intends to redevelop the Project Parcel to include the design and construction of a minimum of three hundred twenty five (325) Class A multi-family residential units (as defined below, the “Residential Improvements”), a Ship’s Store Improvements (defined below), a restaurant/bar with not less than 1,800 square feet of indoor space and not less than 3,200 square feet of outdoor space (as defined below, the “Restaurant Improvements”), and the Parking Garage Improvements (defined below) with approximately 500 structured parking spaces to serve the overall project (collectively, the “Project”). The completion of construction of the Residential Improvements, the Parking Garage Improvements, the Restaurant Improvements, the Infrastructure Improvements (defined below), the Riverwalk Improvements (defined below) and other improvements contemplated herein (exclusive of the City Marina Improvements) are expected to cause private Capital Investment (defined below) in the approximate amount of Eighty-Five Million and 00/100 Dollars (\$85,000,000) by or on behalf of the Developer.

In consideration of Developer’s acquisition and redevelopment of the Project Parcel, the DIA has recommended and the City and DIA agree to provide the following pursuant to the terms of this Agreement: (i) upon satisfaction of the conditions precedent

to the conveyance contained in this Agreement, conveyance of the Project Parcel to Developer; (ii) upon Substantial Completion of the Residential Improvements, a seventy-five percent (75%), REV Grant (defined below), in the up-to, maximum amount of \$12,996,885, payable to the Developer in accordance with Article 9 below; (iii) upon Substantial Completion of the Restaurant Improvements, a Restaurant Completion Grant in an amount equal to the lesser of \$500,000 or the Direct Costs (defined below) of the Restaurant Improvements; (iv) upon satisfactory completion of the Foundation Inspection (defined below) with respect to the Residential Improvements, an Infrastructure Grant (defined below) in an amount equal to the lesser of \$500,000 or fifty percent (50%) of the actual Direct Costs incurred by the Developer to address unsuitable soil conditions in the Project Parcel; (v) the disbursement to Developer of the Direct Costs of the City Marina Improvements in an amount up to the City Marina Improvements Payment (all as defined below), pursuant to the terms and conditions of the Disbursement Agreement attached hereto; (vi) throughout the term of the REV Grant, (x) ten percent (10%) of the Annual Project Revenues (defined below) actually received by the DIA will be dedicated by DIA for the costs of enhanced park maintenance and dedicated staff for the St. Johns River Park and Friendship Fountain (defined below) above the standard maintenance obligations of the City; and (y) subject to lawful appropriation therefore, the City will provide \$50,000 per year for programming and activation of the St. Johns River Park and Friendship Fountain above the standard maintenance obligations of the City; (vii) the conveyance of stormwater credits to Developer in accordance with Section 12.6 below; and (viii) construction by the City at its expense of changes to South Bank parking lot under the Acosta bridge, (restriping, moving parking spaces, etc.) to accommodate boat trailer parking and provide access to hammerhead turn-around of boat ramp launch and entrance to the boat ramp located adjacent to the Marina (defined below), and relocation of the underground storage tanks (“USTs”). The obligations set forth in subsections (i) through (viii) above are hereinafter collectively referred to as the “City/DIA Obligations”.

## **1.2 Authority.**

The DIA was created by the City Council of the City of Jacksonville pursuant to Ordinance 2012-364-E. Pursuant to Chapter 163, Florida Statutes, and Section 55.104, Ordinance Code, the DIA is the sole development and community redevelopment agency for Downtown, as defined by Section 55.105, Ordinance Code and has also been designated as the public economic development agency as defined in Section 288.075, Florida Statutes, to promote the general business interests in Downtown. The DIA has approved this Agreement pursuant to its Resolution 2021-01-03 (“Resolution”) and the City Council has authorized execution of this Agreement pursuant to City Ordinance 2021-253-E (the “Ordinance”).

**1.3 City/DIA Determination.**

- (a) The City has determined that the Project is consistent with the goals of the City in that the Project will, among other things:
  - (i) increase capital investment in Downtown Jacksonville;
  - (ii) generate significant new ad valorem taxes, including significant new tax revenues for the public school system;
  - (iii) help meet the overall community goal of residential and business development and growth in Downtown Jacksonville;
  - (iv) promote and encourage private Capital Investment of approximately \$85,000,000.
  
- (b) The DIA has determined that the Project is consistent with the following North Bank Downtown and Southside Community Redevelopment Area Plan Redevelopment Goals:
  - (i) Goal 1. Reinforce Downtown as the City's unique epicenter for business, history, culture, education, and entertainment by increasing the opportunities for employment within Downtown; and supporting the expansion of entertainment, restaurant and retail/commercial within proximity to adjacent residential redevelopment;
  - (ii) Goal 2. Increase rental and owner-occupied housing downtown, targeting key demographic groups seeking a more urban lifestyle.
  - (iii) Goal 3. Simplify the approval process for downtown development and improve departmental and agency coordination.
  - (iv) Goal 4. Improve walkability/bikeability and connectivity to adjacent neighborhoods and the St. John River while creating highly walkable nodes;
  - (v) Goal 5. Establish a waterfront design framework to ensure a unique experience and sense of place; and

**1.4 Jacksonville Small and Emerging Business Program.**

As more fully described in City Ordinance 2004-602-E, the City has determined that it is important to the economic health of the community that whenever a company receives incentives from the City, that company provides contracting opportunities to the

maximum extent possible to small and emerging businesses in Duval County as described in Section 14.1.

**1.5 Coordination by City.**

The City hereby designates the Chief Executive Officer (“CEO”) of the DIA or his or her designee to be the Project Coordinator who will, on behalf of the DIA and City, coordinate with the Developer and administer this Agreement according to the terms and conditions contained herein and in the Exhibit(s) attached hereto and made a part hereof. It shall be the responsibility of the Developer to coordinate all project related activities with the designated Project Coordinator, unless otherwise stated herein.

**1.6 Maximum Indebtedness.**

The maximum indebtedness of the City for all fees, grants, reimbursable items or other costs pursuant to this Agreement shall not exceed the sum of FIFTEEN MILLION ONE HUNDRED FORTY THOUSAND SIX HUNDRED NINETY-TWO AND NO/100 DOLLARS (\$15,140,692.00).

**1.7 Availability of Funds.**

(a) Notwithstanding anything to the contrary herein, the City’s and DIA’s financial obligations under this Agreement are subject to and contingent upon the availability of lawfully appropriated funds for their respective obligations under this Agreement; provided, however, that the DIA staff agree to include, as needed on an annual basis, the allocation of funds in its annual budget for submission to the DIA Board and City Council for approval.

**NOW THEREFORE**, in consideration of the mutual undertakings and agreements herein of City, DIA, and Developer, and for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, City, DIA and the Developer agree that the above Preliminary Statements are true and correct, and represent, warrant, covenant and agree as follows:

**Article 2.  
DEFINITIONS**

As used in this Agreement, the following terms shall have the meaning set opposite each:

**2.1 Affiliate.** A person or entity, directly or indirectly, controlling, controlled by or under common control with a person or entity.

**2.2 Base Year.** The base year for purposes of this Agreement shall be the 2021 tax year.

**2.3 Capital Investment.** Money invested by a developer to purchase items that may normally be capitalized by a developer in the normal conduct of its business to design, construct and develop a project, including land acquisition costs.

**2.4 City Council.** The body politic, as the same shall be from time to time constituted, charged with the duty of governing the City.

**2.5 City Marina Improvements.** Those certain improvements to Dock A of the Marina (defined below) to be funded and owned by the City and located on the property as set forth on **Exhibit B** attached hereto. The City shall own the City Marina Improvements. The City Marina Improvements shall be inclusive of fueling services and equipment and shall be funded by the City in a maximum amount up to \$1,143,807 (the "**City Marina Improvements Payment**"), with the Developer responsible for all costs in excess thereof.

**2.6 Commence Construction.** The terms "Commence" or "Commenced" or "Commencing" or "Commencement of" construction as used herein when referencing the Project or any portion thereof means the date when Developer (i) has completed all pre-construction engineering and design and has obtained all necessary licenses, permits and governmental approvals, has engaged all contractors and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Project (or applicable phase thereof) may begin and proceed to completion without foreseeable interruption, and (ii) with respect to the Residential Improvements and Parking Garage Improvements, has submitted to the City binding loan documents, a recorded mortgage evidencing an obligation to advance loan funds in an amount that, when combined with the equity, is sufficient to construct the Project, or other evidence acceptable to the DIA in its reasonable discretion showing sufficient funds to complete the Residential Improvements and Parking Garage Improvements, without any Impermissible Delays, and (iii) has "broken ground" and begun physical, material renovation and construction of such Improvements on an ongoing basis as may be approved by the DIA in its reasonable discretion.

**2.7 DIA.** The Downtown Investment Authority of the City of Jacksonville and any successor to its duties and authority.

**2.8 DDRB.** The Downtown Development Review Board of the City.

**2.9 Direct Costs.** The term "Direct Costs" shall mean the direct design, engineering, permitting, landscaping and construction costs incurred by Developer in

connection with the Improvements (exclusive of the cost of the City Marina Improvements), or applicable portion thereof as applicable, including, without limitation, soft and hard costs associated with the design, engineering, permitting and construction testing, all pertaining only to the Improvements and as itemized in the budget for such Improvements.

**2.10 Environmental Laws.** All Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to Hazardous Substances (defined below) or wastes, air emissions and discharges to waste or public systems.

**2.11 Final Design Approval.** Final approval of the conceptual plans for the Project by DDRB.

**2.12 Force Majeure.**

A delay in performance as a result of war, insurrection, enemy action, civil disturbance, strikes, lockouts, riots, floods, earthquakes, fires, named tropical storms or hurricanes, casualty, acts of God, acts of public enemy, acts of terrorism, epidemic, pandemic, quarantine restrictions, freight embargo, shortage of or inability to obtain labor or materials, interruption of utilities service, lack of transportation, severe weather, restraint by court or public authority, delays in settling insurance claims, moratoriums or other delays relating to applicable laws, any act, neglect or failure to perform of or by one party that caused the other party to be delayed in the performance of any of its obligations hereunder, delays in obtaining applicable governmental approvals, licenses, permits, and inspections, not caused by the Developer and which are outside the Developer's control, which are required for construction of the Improvements and other acts or failures beyond the control or without the control of any party.

**2.13 Foundation Inspection.** That certain inspection performed by or on behalf of the City at Developer's expense in order to confirm that the foundation for the Residential Improvements has been poured and may be utilized for its intended purposes.

**2.14 Impermissible Delay.** The term "Impermissible Delay" means, subject to the provisions of Section 18.3, failure of Developer to proceed with reasonable diligence with the construction of the applicable Improvements within the timeframe for Substantial Completion contemplated in this Agreement, or after Commencement of construction of the applicable Improvements, abandonment of or cessation of work on any portion of the Improvements at any time prior to the Substantial Completion of such Improvements for a period of more than forty (40) consecutive business days, except in cases of Force Majeure as described in Section 18.3. Notwithstanding the foregoing, any delay or cessation of any of the Improvements as to which Developer has been unable to secure the necessary permits and approvals after diligent efforts shall not be an

Impermissible Delay, as long as Developer continues its diligent efforts to obtain such permits and approvals.

**2.15 Improvements.** The Residential Improvements, the Parking Garage Improvements, the Restaurant Improvements, the Riverwalk Improvements, the City Marina Improvements, the Infrastructure Improvements and the Ship's Store Improvements.

**2.16 Infrastructure Improvements.** Any work related to remediation of environmental contamination or subsurface conditions, including compaction, affecting construction of the all or any portion of the Improvements on the Project Parcel.

**2.17 Marina.** The existing docks designed for mooring of pleasure boat and small craft located adjacent to the Project Parcel as the same are improved or maintained from time to time.

**2.18 MOSH.** Jacksonville's Museum of Science and History located at the MOSH Property.



**2.19 MOSH Property.** That certain parcel of real property adjacent to the Project Parcel, currently leased by the City to MOSH, as more particularly described on **Exhibit D** attached hereto.

**2.20 Parking Garage Improvements.** That certain, to-be-constructed structured parking facility to be located on the property set forth on **Exhibit E** containing no less than five hundred (500) spaces on the Project Parcel to be used as contemplated in this Agreement, with a minimum of thirty (30) spaces on the first or second floor of the Parking Garage Improvements as mutually agreed, at no cost to the City (collectively, the “City Spaces”), reserved in perpetuity for the twenty-four hours, seven days a week, exclusive use of parking non-commercial vehicles by the City, its employees, patrons or other designees. The City Spaces may not be used for (a) the parking of commercial vehicles, including, without limitation, City trucks and fleet vehicles or (b) residential parking for a residential development located outside of the Project Parcel. Developer shall install adequate interior and exterior signage evidencing the City Spaces and shall install a gate in order to separate the residential parking spaces for the Project from the City Spaces and other guest spaces located in the parking garage.

**2.21 Performance Schedule.** The Performance Schedule, as defined in Article 4 hereof.

**2.22 Project.** The Improvements located or to be located on the Project Parcel, the Riverwalk Parcel, the Restaurant Parcel and the Marina (as applicable), and the obligations of the Developer under this Agreement, as more specifically described herein.

**2.23 Project Parcel.** That certain approximately 3.43 acre parcel of real property to be conveyed to the Developer and located generally at 835 Museum Circle, Jacksonville, Florida, as further described on **Exhibit A** attached hereto.

**2.24 Repurchase Price.** The purchase price paid by Developer to Maritime under the Lease PSA, exclusive of any and all of (i) Developer’s actual out-of-pocket costs and expenses incurred with respect to the transactions governed by this Agreement and the Lease PSA and (ii) any costs incurred by Developer in connection with design, permitting and development of the Project, including Direct Costs and any other costs incurred by the Developer.

**2.25 Repurchase Right.** City’s rights to repurchase the Project Parcel from the Developer for the amount of the Repurchase Price in the event that Developer fails to Commence construction of the Residential Improvements and Parking Garage Improvements by the Commencement of Construction Date, in accordance with the terms set forth in Section 4.1 hereof.

**2.26 Residential Improvements.** A minimum of 325 multi-family residential Class A units to be constructed on the Project Parcel in accordance with this Agreement.

**2.27 Restaurant Improvements.** A no less than 1,800 sq. ft. building which is no greater than 25' in height, with an additional outdoor dining and restaurant amenity space not less than 3,200 sq. ft. in size, to be constructed and located on the Restaurant Parcel, excluding tenant improvements. Developer shall use commercially reasonable efforts to market and lease the Restaurant Improvements for its intended use during the term of the REV Grant.

**2.28 Restaurant Parcel.** That certain parcel of land as described on **Exhibit F** attached hereto, on which the Restaurant Improvements will be located, and which is part of the Project Parcel.

**2.29 Riverwalk Design Criteria.** The design criteria that will govern the construction of the Riverwalk Improvements, a copy of which is attached hereto as **Exhibit G.**

**2.30 Riverwalk Improvements.** Those certain Riverwalk Improvements to be constructed by Developer on the Riverwalk Parcel, as further described on **Exhibit H** attached hereto and incorporated herein by this reference.

**2.31 Riverwalk Parcel.** A 25' wide strip of real property parallel and adjacent to the bulkhead along the Project Parcel, as legally described on **Exhibit I** attached hereto, which strip of property shall be retained by the City.

**2.32 Ship's Store Improvements.** A minimum of a 1,000 sq. ft. retail store selling sundries, ice and other necessities for patrons of the marina and boat ramp and located on the Project Parcel in the vicinity of the existing boat ramp adjacent to the Project Parcel, that shall be open daily with minimum required operating hours of at least 8:00 a.m. to 6:00 p.m. for so long as the boat ramp remains in operation. Developer shall incur Direct Costs of no less than \$300,000 for the design and construction of the Ship's Store.

**2.33 St. Johns River Park and Friendship Fountain.** The park and fountain located adjacent to the Project Parcel.

**2.34 Substantial Completion.** "Substantially Completed" or "Substantial Completion" means that all permits have been finalized, a certificate of substantial completion has been issued by the contractor and verified by the architect of record, and the applicable Improvements are available for use in accordance with their intended purpose; subject to commercially reasonable punch list items, completion of tenant improvements and similar items.

**2.35 Title Company.** Fidelity National Title Insurance Company.

Other capitalized terms not defined in this Article shall have the meanings assigned to them elsewhere in this Agreement.

**Article 3.**  
**APPROVAL OF AGREEMENT**

**3.1 Approval of Agreement.**

By the execution hereof, the parties certify as follows:

- that:
- (a) Developer warrants, represents, and covenants with City and DIA
    - (i) the execution and delivery hereof has been approved by all parties whose approval is required under the terms of the governing documents creating the Developer entity;
    - (ii) this Agreement does not violate any of the terms or conditions of such governing documents and the Agreement is binding upon the Developer and enforceable against it in accordance with its terms;
    - (iii) the person or persons executing this Agreement on behalf of the Developer are duly authorized and fully empowered to execute the same for and on behalf of the Developer;
    - (iv) the Developer and each entity composing the Developer is, to the extent required by applicable law, duly authorized to transact business in the State of Florida; and
    - (v) the Developer, its business operations, and each person or entity composing the Developer are in material compliance with all federal, state and local laws, to the extent applicable to the Project and which could have a material adverse effect on the Project and the Developer's ability to complete the Project in accordance with this Agreement.
  - (b) The DIA certifies to Developer that the execution and delivery hereof has been approved at a duly convened meeting of the DIA and the same is binding upon the DIA and enforceable against it in accordance with its terms.
  - (c) The City certifies to Developer that the execution and delivery hereof is binding upon the City to the extent provided herein and enforceable against the City in accordance with the terms hereof.

**Article 4.**  
**PERFORMANCE SCHEDULE**

**4.1 Project Performance Schedule.**

The City, the DIA and the Developer have jointly established the following dates for the Developer's obligations under this Agreement (collectively, the "Performance Schedule"):

(a) Developer shall obtain Final Design Approval for the Project by no later than September 30, 2021, and shall obtain all building and other permits (the "**Permits**") to Commence demolition and construction of horizontal Improvements by no later than June 30, 2022. The City and DIA shall join in and execute all applications and/or governmental submittals required to obtain the Permits, at no cost or expense to the City of DIA. The City and DIA acknowledge and agree that the applications and submittals for Permits may be made in the name of Developer, or an affiliate thereof. Pursuant to and consistent with Chapter 651, *Ordinance Code*, the City agrees to expedite the approval process for the Permits necessary for the Project.

(b) Demolition of the existing structures on the Project Parcel will be completed by no later than September 30, 2022.

(c) Commencement of construction of the Residential Improvements and Parking Garage Improvements shall start at the earlier of (i) thirty (30) days after completion of the demolition work on the Project Parcel, or (ii) October 31, 2022 (the "Commencement of Construction Date"). Prior to the Commencement of construction of the Improvements, Developer shall cause its general contractor to secure a payment and performance bond and Developer will provide its construction lender with a completion guarantee for the satisfactory completion of the Project and Developer shall provide the City and DIA with written notice of the same. Developer will use commercially reasonable efforts to have the the City added as an additional obligee to the performance bond, with any costs imposed by the insurer in connection therewith to be borne by the City, and Developer shall provide copies of the same to the City. In addition, the Developer will provide to the City, in the form of which to be in Developer's reasonable discretion, a completion guaranty substantially in the same format as provided to Developer's lender (the "Lender Completion Guaranty"), or an alternative commercially reasonable guarantee of completion.

(d) Developer shall Substantially Complete construction of the Project on the earlier of: (i) thirty (30) months after the Residential Improvements and Parking Garage Improvements Commencement of Construction Date; or (ii) April 30, 2025 (the "Completion Date"), subject to Force Majeure.

A temporary certificate of occupancy for the Restaurant Improvements, subject to completion of tenant improvements and commercially reasonable punchlist items, must be obtained prior to the issuance of a certificate of occupancy for the Residential Improvements.

The City, DIA and the Developer have approved this Performance Schedule. By the execution hereof, and subject to the terms of this Agreement, the Developer hereby agrees to undertake and complete the construction and development of the Project in accordance with this Agreement and the Performance Schedule, subject to extensions for Force Majeure and other extensions pursuant to this Agreement, and to comply with all of the Developer's obligations set forth herein. The CEO of the DIA may extend the dates set forth in the Performance Schedule for up to six (6) months in her sole discretion for good cause shown by Developer. For purposes of clarity, each of the Commencement of Construction Date and Completion Date may receive up to a six (6) month extension by the CEO.

## **Article 5.**

### **PURCHASE AND SALE OF PROJECT PARCEL BY DEVELOPER**

#### **5.1 Property Conveyed.**

Subject to the terms and conditions of this Agreement and the Permitted Exceptions (as hereafter defined), the City hereby agrees to sell and convey to Developer, and Developer hereby agrees to purchase from the City, the Project Parcel for the sum of ONE AND NO/100 DOLLARS (\$1.00) (the "Purchase Price"), pursuant to the terms and conditions of this Article 5. The Developer's obligations herein to construct the Project and Improvements also constitute consideration for the purchase of the Project Parcel by Developer.

#### **5.2 Conditions to Closing.**

(a) Title Commitment and Survey. Within (ten) 10 days after the Effective Date, Developer shall at its own expense obtain a survey of the Project Parcel (the "Survey") and a commitment for title insurance (the "Title Commitment") for an Owner's Policy of Title Insurance for the Project Parcel, and provide copies of each to the City. The Developer shall have fifteen (15) days thereafter (the "Approval Period") within which to review the Title Commitment and Survey and to object to any exception to title shown on the Title Commitment or any matter shown on the Survey ("Developer's Title Objections"). City shall have fifteen (15) days thereafter within which to review and approve the Survey legal description in its reasonable discretion. If Developer fails to provide written notice of Developer's Title Objections to City within the Approval Period, Developer shall be deemed to have approved the Title Commitment and the Survey. If Developer provides written notice to City of Developer's Title Objections during the Approval Period ("Developer's Objection Notice"), City shall have the right to

cure or attempt to cure Developer's Title Objections within fifteen (15) days after Developer's Objection Notice; provided however that the City shall not have any obligation to cure any Developer's Title Objection or to bring suit to cure any or all of Developer's Title Objections; further provided that the City will use reasonable efforts to do so without incurring any out of pocket costs. In the event City is unable to or elects not to cure any one or more of Developer's Title Objections, City shall notify Developer in writing of such election within fifteen (15) days after Developer's Objection Notice (the "Election Notice"). City's failure to deliver the Election Notice to Developer within said fifteen (15) day time period shall be deemed to constitute City's election not to satisfy or cure any of Developer's Title Objections. If City delivers an Election Notice and/or is deemed to elect not to satisfy or cure any of Developer's Title Objections, Developer may at its option terminate this Agreement by notifying City in writing no later than sixty (60) days from the Effective Date, in which event this Agreement shall terminate and the parties shall have no further liability to one another hereunder, except as specifically set forth herein. If Developer fails to terminate the Agreement as set forth in this section, Developer shall be deemed to have waived the Developer's Title Objections and the sale of the Project Parcel shall proceed to Closing, subject to the terms of this Agreement. The term "Permitted Exceptions", as used herein, shall mean the title exceptions listed in Schedule B, Section 2 (and Section 1 if Section 1 requires the cure or release of items typically inserted on Section 2) of the Title Commitment that Developer approves or is deemed to approve pursuant to this Section 5.2.

Except as otherwise set forth herein, at all times prior to Closing (and with the exception of any code enforcement liens or other regulatory filings), City shall not execute any documents which would encumber the Project Parcel which shall be recorded in the Public Records of Duval County, Florida or would otherwise affect title to the Project Parcel without Developer's prior written consent, which may be withheld in Developer's sole and absolute discretion following the execution of this Agreement; provided, however, nothing contained herein shall preclude or prohibit the City from taking any actions which are consistent with the terms of this Agreement (e.g. obtaining and recording release of liens or other encumbrances, if any, against the Project Parcel).

If at any time subsequent to the delivery of the Title Commitment and the Survey to Developer and prior to the Closing of this transaction, any endorsement of the Title Commitment and/or recertifications of the Survey obtained by Developer show that additional defects ("Additional Title Objections"), Developer may raise such items as Additional Title Objections so long as such items are not caused by, through or under Developer. City and Developer shall have the same obligations and options regarding Additional Title Objections as are provided in the preceding paragraph regarding Developer's Title Objections.

(b) Condition of Project Parcel. The Project Parcel shall be conveyed to Developer in its "as-is", "where is" condition, with all faults. It shall be the sole responsibility of the Developer, at Developer's expense, to investigate and determine the

soil conditions of the Project Parcel and their suitability for the improvements to be constructed by the Developer. If the condition of the Project Parcel is not, in the opinion of the Developer, suitable for such improvements, then it is the sole responsibility of Developer to take all actions and do all things required to render such Project Parcel suitable, or to terminate the Agreement prior to Developer's Acceptance Date (defined below). Subject to the Lease, Developer may, at Developer's sole risk and expense, undertake a complete physical inspection of the Project Parcel as Developer deems appropriate, including but not limited to soil tests and environmental audits; provided, however, that any such inspection does not cause any permanent damage to the Project Parcel. In addition, Developer shall have the right to review, and DIA shall make available to Developer all reports, studies, projections, or other materials relating to the ownership, use, operation, management, maintenance or physical and environmental condition of the Project Parcel to the extent in DIA's or City's possession or control. Subject to the Lease, Developer's right to inspect the Project Parcel shall include the right to conduct such investigations, tests, surveys, interviews and other analyses as Developer determines is necessary, including, without limitation, entry into or upon every portion of the Project Parcel including those portions leased to tenants. All such inspections, investigations and examinations shall be undertaken at Developer's sole cost and expense. Developer will coordinate all on-site inspections with the DIA and Maritime so that the DIA shall have the option of having one of DIA's representatives present at any and all such on-site inspections. After completing any such inspections, Developer shall restore and repair any damage caused by Developer's inspections to substantially the same condition that existed immediately prior to such inspection, and Developer hereby agrees to indemnify and hold DIA and City harmless from any and all claims made or causes of action brought against DIA, City or the Project Parcel resulting from the activities of Developer or any of Developer's agents or servants in conducting any of such inspections on the Project Parcel. Notwithstanding the foregoing, Developer's indemnity shall not cover any loss, claim or damage to the Project Parcel or to any person directly related (i) to any conditions or environmental issues which existed prior to Developer's inspection or to the existence of any hazardous materials or substances which is discovered during Developer's inspection or (ii) resulting from City's or DIA's negligent acts or omissions or willful misconduct. The terms of this Section shall survive the Closing or the termination of this Agreement, as applicable. Furthermore, Developer agrees to maintain and cause all of its contractors and other representatives conducting any inspections to maintain and have in effect workers' compensation insurance, with statutory limits of coverage, and comprehensive general liability insurance with (i) appropriate coverages, (ii) waiver of subrogation, and (iii) limits of not less than Two Million Dollars (\$2,000,000), combined single limit, for personal injury, including bodily injury and death, and property damage. Such insurance shall name City and DIA and affiliates identified by City and DIA as additional insured parties and shall be in form reasonably acceptable to City and DIA, and shall not be modified or terminated without thirty (30) days' prior written notice to City and DIA. Developer shall deliver to City and DIA, prior to entry upon the Project Parcel, evidence reasonably satisfactory to City and DIA that the insurance required hereunder is in full force and effect.

(c) Termination. In addition to the specific termination rights contained herein, Developer may terminate this Agreement at any time prior to the date which is forty-five (45) days from the Effective Date (the “Developer’s Acceptance Date”), at which time Developer shall accept or reject the physical and environmental condition of the Project Parcel. Upon accepting the condition of the Project Parcel, Developer shall give written notice to DIA; failure to deliver such written notice shall be deemed to be that Developer is terminating this Agreement. If this Agreement is terminated pursuant to this Article 5, the parties shall have no further rights or obligations under this Agreement except as otherwise specified herein, and except for Developer’s obligations to restore the Property to the same condition it was in as of the Effective Date of this Agreement, subject to reasonable wear and tear (provided, however, that, Developer shall have no obligation to repair any pre-existing conditions discovered by Developer or its agents or servants on or within the Project Parcel other than Developer’s obligation to restore and repair any damage caused by Developer’s inspections to substantially the same condition that existed as of the Effective Date of this Agreement. Upon further request by City, Developer shall, within ten (10) days of such termination, deliver to City and DIA, without representation or warranty of any kind, copies of all documents received from City or DIA, including without limitation all feasibility studies, engineering reports, surveys and such other non-proprietary due diligence documentation reasonably requested by City that is related to the condition of the Project Parcel and/or its operation and that is within Developer’s actual possession or control.

(d) No Representations or Warranties by City or DIA; Acceptance of Project Parcel “As Is”.

Disclaimer. DEVELOPER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR IN THE DOCUMENTS DELIVERED BY THE CITY OR DIA AT CLOSING, CITY AND DIA HAVE NOT MADE, DO NOT MAKE AND SPECIFICALLY NEGATE AND DISCLAIM ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROJECT PARCEL (INCLUDING WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) ANY INCOME TO BE DERIVED FROM THE PROJECT PARCEL, (C) THE SUITABILITY OF THE PROJECT PARCEL FOR ANY AND ALL ACTIVITIES AND USES WHICH DEVELOPER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROJECT PARCEL OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROJECT PARCEL, (F) GOVERNMENTAL RIGHTS OF POLICE POWER OR EMINENT DOMAIN, (G)



DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS: (1) NOT KNOWN TO DEVELOPER AND NOT SHOWN BY THE PUBLIC RECORDS BUT KNOWN TO CITY OR DIA AND NOT DISCLOSED IN WRITING BY CITY AND DIA TO THE DEVELOPER PRIOR TO THE CLOSING, (2) RESULTING IN NO LOSS OR DAMAGE TO DEVELOPER OR (3) ATTACHING OR CREATED SUBSEQUENT TO THE DATE OF THE CLOSING, (H) VISIBLE AND APPARENT EASEMENTS AND ALL UNDERGROUND EASEMENTS, THE EXISTENCE OF WHICH MAY ARISE BY UNRECORDED GRANT OR BY USE, (I) ALL MATTERS THAT WOULD BE DISCLOSED BY A CURRENT SURVEY OF THE PROJECT PARCEL, (J) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROJECT PARCEL, (K) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROJECT PARCEL, OR (L) ANY OTHER MATTER WITH RESPECT TO THE PROJECT PARCEL, AND SPECIFICALLY, THAT, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR IN THE DOCUMENTS DELIVERED BY THE CITY OR DIA AT CLOSING, CITY OR DIA HAVE NOT MADE, DO NOT MAKE AND SPECIFICALLY DISCLAIM ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE, ZONING OR DEVELOPMENT OF REGIONAL IMPACT LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROJECT PARCEL OF HAZARDOUS MATERIALS (AS DEFINED BELOW). DEVELOPER FURTHER ACKNOWLEDGES THAT, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR IN THE DOCUMENTS DELIVERED BY THE CITY OR DIA AT CLOSING, DEVELOPER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROJECT PARCEL AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY CITY OR DIA. AT THE CLOSING DEVELOPER AGREES, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR IN THE DOCUMENTS DELIVERED BY THE CITY OR DIA AT CLOSING, TO ACCEPT THE PROJECT PARCEL AND WAIVE ALL OBJECTIONS OR CLAIMS AGAINST CITY AND DIA (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROJECT PARCEL OR TO ANY HAZARDOUS MATERIALS ON THE PROJECT PARCEL. DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR IN THE DOCUMENTS DELIVERED BY THE CITY OR DIA AT CLOSING, ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROJECT PARCEL WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT CITY AND DIA HAVE NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKE NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR IN THE DOCUMENTS DELIVERED BY THE CITY OR DIA AT CLOSING, CITY AND DIA ARE NOT LIABLE OR BOUND IN ANY MANNER BY ANY

VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROJECT PARCEL, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, OFFICER, EMPLOYEE, AGENT, SERVANT OR OTHER PERSON. DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR IN THE DOCUMENTS DELIVERED BY THE CITY OR DIA AT CLOSING, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROJECT PARCEL AS PROVIDED FOR HEREIN IS MADE IN AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE PROJECT PARCEL IS SOLD BY CITY AND PURCHASED BY DEVELOPER SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING, TERMINATION OR EXPIRATION OF THIS AGREEMENT.

(e) Hazardous Materials. "Hazardous Materials" shall mean any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.) ("CERCLA") or any regulations promulgated under or pursuant to CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.) ("RCRA") or regulations promulgated under or pursuant to RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. §2601 et seq.); (iv) gasoline, diesel fuel, or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or materials which are now or hereafter classified or considered to hazardous or toxic under the common law. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Project Parcel, (A) requires reporting, investigation or remediation under Environmental Requirements; (B) causes or threatens to cause a nuisance on the Project Parcel or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Project Parcel or adjacent property; or (C) which, if it emanated or migrated from the Project Parcel, could constitute a trespass.

(f) Environmental Risks. The City, the DIA, and the Developer acknowledge that there are, or may be, certain environmental obligations and risks with respect to the Project Parcel. The Developer shall comply with all requirements of the Environmental Laws in connection with the Project Parcel. Except as otherwise set forth in this Agreement or in the documents delivered by the city or DIA at Closing, the City and DIA make no representation or warranty as to whether the Developer's intended use of the Project Parcel as set forth herein violate or comply with any of the Environmental Laws. All financial and other obligations applicable to the real property owner under the Environmental Laws in the foregoing documents, as between the City and DIA on one hand, and the Developer on the other hand, shall be the obligation of the Developer.

Notwithstanding anything to the contrary contained herein, the City shall be responsible for any environmental obligations, costs and risks associated with the removal and relocation of the USTs, including, without limitation, any maintenance and handling of any and all Hazardous Materials related thereto. The provisions of this Section shall survive the Closing, termination or expiration of this Agreement.

(g) Indemnity. Developer hereby expressly acknowledges that from and after the Closing, Developer shall be responsible for the proper maintenance and handling of any and all Hazardous Materials, if any, located in or on the Project Parcel or in the Improvements in accordance with all Environmental Requirements, including but not limited to the BSRA, Consent Order, and the regulations at 40 C.F.R. Section 61 as authorized under the Clean Air Act and all regulations promulgated or to be promulgated under all other applicable local, state or federal laws, rules or regulations, as same may be amended from time to time. Furthermore, from and after Closing, Developer shall indemnify and hold DIA, the City, and their respective members, officials, officers, employees and agents harmless from and against any and all claims, costs, damages or other liability, including attorney's fees, incurred by DIA, the City, its members, officials, officers, employees and agents as a result of Developer's failure to comply with the requirements of this Section in connection with Developer's proper maintenance and handling of any and all Hazardous Materials, if any, located in or on the Project Parcel, except to the extent caused by the negligence or willful misconduct of the City or DIA. This Indemnification shall survive the Closing and the expiration or earlier termination of this Agreement.

(h) Release. Developer, on behalf of itself and its heirs, successors and assigns, and except in connection with any representations or warranties set forth in this Agreement or in the documents delivered by the City or DIA at Closing, hereby waives, releases, acquits and forever discharges City and DIA, and their respective members, officials, officers, directors, employees, agents, attorneys, representatives, and any other persons acting on behalf of City or DIA and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Developer or any of its heirs, successors or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present, or future physical characteristic or condition of the Project Parcel including, without limitation, any Hazardous Materials in, at, on, under or related to the Project Parcel, or any violation or potential violation of any Environmental Requirement applicable thereto, except to the extent caused by the negligence or willful misconduct of the City or DIA. Notwithstanding anything to the contrary set forth herein, this release shall survive the Closing, and the termination or expiration of this Agreement.

### 5.3 Closing.

(a) Closing. The closing (the "Closing") shall be held at the offices of DIA's counsel via mail-away closing commencing at 9:00 a.m. and concluding no later than 3:00 p.m. on or about the date on which closing under the Lease PSA occurs, but no later than October 31, 2021 (the "Closing Date"), unless the parties mutually agree upon another time or date.

(b) Possession. Exclusive possession of the Project Parcel shall be delivered to Developer at the Closing and it shall be a condition to Developer's obligation to Close that the physical and environmental condition shall not have changed after the Developer's Acceptance Date.

(c) Prorations. At Closing, pro-rations of expenses and the apportionment of taxes shall be as follows:

(i) All utilities, rent, and all other operating expenses with respect to the Project Parcel (and inclusive of any other payments due Developer under the Lease as of Closing), if any, for the month in which the Closing occurs, and all taxes, if any, and other assessments with respect to the Project Parcel for the year in which the Closing occurs, shall be prorated as of the date of Closing. Developer shall be responsible for all property taxes and other assessments related to the Project Parcel on and after the Closing Date without adjustment for any changes in assessed values or taxes after the Closing Date.

(ii) The agreements of City, DIA and Developer set forth in this Section 5.3(c) shall survive the Closing.

(d) Closing Costs. Except as otherwise expressly provided herein, DIA shall pay, on the Closing Date, DIA's attorney's fees. Developer shall pay, on the Closing Date, the premium for an owner's title policy, all recording costs, any documentary stamps on the deed, intangible tax on any mortgage, documentary stamps on any note, any and all other costs related to any loan obtained by Developer in connection with the Project Parcel or improvements thereon, the cost of any inspections, the cost of surveys, Developer's attorney's fees, and all other closing costs except for the above-described closing costs to be paid by Seller.

(e) City/DIA's Obligations at the Closing. At the Closing, DIA shall deliver to Developer each of the following documents:

(i) Deed. Quit Claim Deed (the "Deed") with re-purchase right, executed by City quit-claiming the Project Parcel to Developer in the form attached hereto as Exhibit J.

(ii) Right of First Refusal. The City shall grant a right of first refusal for a period of ten (10) years from the Effective Date of this Agreement to Developer to purchase the MOSH Property, in substantially the form attached hereto as **Exhibit K**.

(iii) Evidence of Authority. Copy of such documents and resolutions as may be acceptable to the Title Company, so as to evidence the authority of the person signing the Deed and other documents to be executed by City at the Closing and the power and authority of City to quit-claim the Project Parcel to Developer in accordance with this Agreement.

(iv) Foreign Person. An affidavit of City certifying that City is not a “foreign person”, as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act, as amended.

(v) Owner’s Affidavit. An executed affidavit or other document acceptable to the Title Company in issuing the Owner’s Policy without exception for the “gap” exception, possible lien claims of mechanics, laborers and materialmen or for parties in possession.

(vi) Temporary Construction Easements. A duly executed original of each of: (i) the Riverwalk Temporary Construction Easement; (ii) the Marina Temporary Construction Easement, and (iii) the Temporary Demolition Easement, each as defined below.

(vii) Closing Statement. A closing statement setting forth the allocation of closing costs.

(viii) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the Developer or its counsel and DIA or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

(f) Developer’s Obligations at the Closing. At the Closing, Developer shall deliver to DIA the following:

(i) Lease Termination. It shall be a condition to City, DIA and Developer’s obligations under this Agreement that the Lease shall be terminated in full prior to conveyance of the Project Parcel, which Lease termination shall be the sole obligation of Developer to obtain.

(ii) Purchase Price. The Purchase Price by wire transfer of immediately available U.S. funds.

(iii) Bill of Sale. A Bill of Sale conveying all right, title and interest in the Marina to the City.

(iv) Temporary Construction Easements. A duly executed original of each of the Riverwalk Temporary Construction Easement, the Marina Temporary Construction Easement, and the Temporary Demolition Easement.

(v) Evidence of Authority. Such corporate resolutions, consents and authorizations as DIA may reasonably deem necessary to evidence authorization of Developer for the purchase of the Project Parcel, the execution and delivery of any documents required in connection with Closing and the taking of all action to be taken by the Developer in connection with Closing.

(vi) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the DIA or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

## **Article 6.**

### **CONSTRUCTION OF CITY MARINA IMPROVEMENTS BY DEVELOPER**

#### **6.1 Developer Construction of City Marina Improvements.**

Pursuant to the terms and conditions of this Agreement and related agreements attached thereto, and in consideration for the grants authorized hereby, Developer agrees to construct and Substantially Complete or cause to be Substantially Completed the City Marina Improvements. In connection with the construction of the City Marina Improvements, Developer shall demolish the current Dock B located at the Marina and the Direct Costs of such demolition shall be disbursed to Developer as part of the City Marina Improvements Payment as further outlined below. Construction of the City Marina Improvements shall Commence no later than twelve (12) months following the Commencement of construction of the Residential Improvements and shall be Substantially Complete by no later than the Completion Date, subject to extensions for Force Majeure. The City will disburse to Developer for the Direct Costs incurred in connection with the City Marina Improvements up to the amount of the City Marina Improvements Payment (with all cost overruns funded by the Developer) on a work performed and invoiced basis pursuant to the City Marina Improvements Costs Disbursement Agreement in substantially the form attached hereto as **Exhibit M** (the

“Disbursement Agreement”), to be executed between the City and Developer prior to Commencement of the City Marina Improvements. Developer shall Substantially Complete or cause to be Substantially Completed the City Marina Improvements in accordance with the Performance Schedule set forth in Section 4.1 of this Agreement. Developer shall use commercially reasonable efforts to maintain continuous operation of the marina docks, use thereof for transient rentals and fuel service throughout construction of the Improvements, inclusive of the City Marina Improvements, subject to Force Majeure and any temporary closures as may be reasonably necessary in connection with the construction of the Improvements.

## **6.2 City Marina Improvements Design and Construction Approval.**

Prior to the Commencement of construction of the City Marina Improvements, the City shall have received and approved the plans, specifications and budget (the “Plans”) prepared by the Developer’s design team for the City Marina Improvements, such approval not to be unreasonably withheld, conditioned or delayed. The Plans shall be complete working drawings and specifications for construction of the City Marina Improvements, and in connection with the development of the City Marina Improvements, the Developer shall follow the applicable permitting, review and approval process as set forth in the Jacksonville Ordinance Code. In addition, the Plans shall be subject to the review and approval of the Director of the City’s Department of Parks, Recreation and Community Services and Director of Public Works in their reasonable discretion. City representatives shall have access to the City Marina Improvements during construction to confirm the City Marina Improvements are constructed consistent with the approved Plans.

## **6.3 Marina Temporary Construction Easement to Developer.**

City shall grant Developer a temporary Marina construction easement substantially in the form attached hereto as Exhibit N over that portion of City land to be included within the City Marina Improvements or immediately adjacent thereto, for the purposes of constructing, installing and maintaining the City Marina Improvements and as otherwise may be necessary for the construction of the City Marina Improvements (the “Marina Temporary Construction Easement”). Developer shall pay any recording fees and documentary stamp taxes as may be due in connection with the easements granted hereby.

## **6.4 Payment and Performance Bonds.**

Prior to commencing any work on the City Marina Improvements, the Developer shall cause all primary contractors to furnish payment and performance bonds for the City Marina Improvements in compliance with Section 255.05, Florida Statutes. The cost thereof shall be paid by the Developer and shall be included in the budget for the City Marina Improvements or Riverwalk Improvements. The payment and performance bonds

for the City Marina Improvements and Riverwalk Improvements shall be recorded and delivered to the CEO prior to Commencement of construction thereof.

**6.5 No Warranty by City or DIA.**

Nothing contained in this Agreement or any other document attached hereto or contemplated hereby shall constitute or create any duty on or warranty by the City or the DIA regarding: (a) the accuracy or reasonableness of the City Marina Improvements or Riverwalk Improvements budget; (b) the feasibility or quality of the construction documents for the City Marina Improvements and Riverwalk Improvements; (c) the quality or condition of the work; or (d) the competence or qualifications of any third party furnishing services, labor or materials in connection with the construction of the City Marina Improvements and Riverwalk Improvements. The Developer acknowledges that it has not relied and will not rely upon any experience, awareness or expertise of the City or the DIA, or any City or DIA inspector, regarding the aforesaid matters.

**Article 7.**

**CONSTRUCTION OF RIVERWALK IMPROVEMENTS BY DEVELOPER**

**7.1 Developer Construction of Riverwalk Improvements.**

Pursuant to the terms and conditions of this Agreement and related agreements attached hereto, and in consideration for the grants authorized hereby, Developer agrees to construct at its sole cost and expense (with a minimum of a \$250,000 expenditure) and Substantially Complete or cause to be Substantially Completed the Riverwalk Improvements as a component of the Improvements. The Riverwalk Improvements shall be constructed in accordance with the Riverwalk Design Criteria and final 10-set plans as approved by the City and final conceptual plans as approved by DDRB. Prior to Commencement of the Riverwalk Improvements, the Developer shall submit final plans and a budget for the same to the Director of Public Works or his designee for review and approval. Upon Substantial Completion of the Riverwalk Improvements, Developer shall submit paid invoices and other documentation and information reasonably requested by the DIA to evidence the minimum \$250,000 cost of the construction of the Riverwalk Improvements.

**7.2 Riverwalk Temporary Construction Easement to Developer.**

City shall grant Developer a temporary construction easement substantially in the form attached hereto as **Exhibit O** over the Riverwalk Parcel and/or portions of City-owned land adjacent thereto, for the purposes of constructing and installing the Riverwalk Improvements (the "Riverwalk Temporary Construction Easement"). Developer shall pay any recording fees and documentary stamp taxes as may be due in connection with the easements granted hereby.



**7.3 No Warranty by City or DIA**

Nothing contained in this Agreement or any other document attached hereto or contemplated hereby shall constitute or create any duty on or warranty by the City or the DIA regarding: (a) the accuracy or reasonableness of the Riverwalk Improvements budget; (b) the feasibility or quality of the construction documents for the Riverwalk Improvements; (c) the quality or condition of the work; or (d) the competence or qualifications of any third party furnishing services, labor or materials in connection with the construction of the Riverwalk Improvements. The Developer acknowledges that it has not relied and will not rely upon any experience, awareness or expertise of the City or the DIA, or any City or DIA inspector, regarding the aforesaid matters.

**Article 8.  
INFRASTRUCTURE GRANT**

**8.1 Infrastructure Grant; Amount.**

After the Developer has Substantially Completed the Infrastructure Improvements and has obtained a satisfactory Foundation Inspection, the Developer shall be eligible for an Infrastructure Grant ("Infrastructure Grant") in the lesser amount of: (i) \$500,000; or (ii) fifty percent (50%) of the actual Direct Costs incurred by the Developer with respect to the Infrastructure Improvements. The City's obligation to make the Infrastructure Grant is subject to the terms and conditions of this Agreement.

**8.2 Conditions to Payment of Infrastructure Grant.**

The City's obligation to make the disbursement of the Infrastructure Grant to Developer is conditioned upon the prior occurrence of the following:

(a) The Developer shall furnish to the DIA evidence of a satisfactory Foundation Inspection as necessary for Commencement of the Residential Improvements as shall be required to establish to the DIA's reasonable satisfaction that the Infrastructure Improvements have been Substantially Completed and are not subject to any material violations or uncorrected conditions noted or filed in any City department.

(b) All property taxes on the Project Parcel must be current, and the Developer must be utilizing the Infrastructure Improvements in accordance with the uses described in this Agreement.

(c) No Event of Default with respect to Developer's obligations under this Agreement has occurred and is continuing (provided, however, that, upon the occurrence of an event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default with respect to Developer's obligations under this Agreement, the City may withhold any portion of the Infrastructure Grant immediately

upon such occurrence and throughout any notice or cure period until such default is cured, and following the cure of such default shall disburse such withheld portion).

(d) The Developer shall submit to the DIA a proper contractor's final affidavit and full and complete releases of liens from each contractor, subcontractor and supplier, or other proof satisfactory to the DIA, confirming that final payment has been made for all materials supplied and labor furnished in connection with the Infrastructure Improvements or that, in the event of a dispute in any amount owed, such amount is properly bonded off pursuant to Florida law so that it will not become a lien on the Project Parcel;

(e) The disbursement request shall be made after Substantial Completion of the Infrastructure Improvements and following a satisfactory Foundation Inspection and satisfaction of all conditions under this Agreement upon written application of Developer pursuant to a Disbursement Request in the form of attached **Exhibit P**. The Disbursement Request shall be accompanied by the following supporting data: (i) invoices, waivers of mechanic's and materialmen's liens obtained for payments made by Developer on account of Direct Costs for the Infrastructure Improvements as of the date of the Disbursement Request. The Disbursement Request shall constitute a representation by Developer that the Work and materials for which payment is requested have been physically incorporated into the Infrastructure Improvements; that the value is as stated; that the Work and materials conform with all applicable rules and regulations of the public authorities having jurisdiction; and that no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

(f) Developer shall take all action necessary to have any mechanic's and materialmen's liens, judgment liens or other liens or encumbrances filed against the Project Parcel (other than any consensual mortgage) released or transferred to bond within ten (10) days of the date Developer receives notice of the filing of such liens or encumbrances. If any such lien or encumbrance is filed, the City shall not be required to make any disbursement of the Infrastructure Grant funds until such lien or encumbrance is bonded over or removed and the City receives a copy of the recorded release. The City shall not be obligated to disburse any of the Infrastructure Grant funds to Developer if, in the reasonable opinion of the City, any such disbursement or the Project or Project Parcel would be subject to a mechanic's or materialmen's lien or any other lien or encumbrance other than inchoate construction liens. Developer shall be fully and solely responsible for compliance in all respects whatsoever with the applicable mechanic's and materialmen's lien laws.

(g) The Developer shall have provided to the DIA, in form and substance reasonably satisfactory to the DIA, any such other document, instrument, information, agreement or certificate the DIA may reasonably require related to the construction or Substantial Completion of the Infrastructure Improvements.

### **8.3 No Warranty by City or DIA.**

Nothing contained in this Agreement or any other document attached hereto or contemplated hereby shall constitute or create any duty on or warranty by City or the DIA regarding: (a) the accuracy or reasonableness of the Project budgets; (b) the feasibility or quality of the construction documents for the Project; (c) the proper application by the Developer of the Infrastructure Grant Funds; (d) the quality or condition of the work; or (e) the competence or qualifications of any third party furnishing services, labor or materials in connection with the construction of the Project. Developer acknowledges that it has not relied and will not rely upon any experience, awareness or expertise of the City or DIA, or any City or DIA inspector, regarding the aforesaid matters.

### **8.4 Further Disclaimer.**

The Infrastructure Grant shall not be deemed to constitute a debt, liability, or obligation of the City, DIA or of the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation, or a pledge of the faith and credit or taxing power of the City or of the State of Florida or any political subdivision thereof, but shall be payable solely from the funds provided therefor in this Article 8. The City and DIA shall not be obligated to pay the Infrastructure Grant or any installment thereof except from the non-ad valorem revenues or other legally available funds provided for that purpose, and neither the faith and credit nor the taxing power of the City, DIA or of the State of Florida or any political subdivision thereof is pledged to the payment of the Infrastructure Grant or any installment thereof. The Developer, and any person, firm or entity claiming by, through or under the Developer, or any other person whomsoever, shall never have any right, directly or indirectly, to compel the exercise of the ad valorem taxing power of the City, DIA or of the State of Florida or any political subdivision thereof for the payment of the Infrastructure Grant or any installment thereof.

## **Article 9. REV GRANT**

### **9.1 Recapture Enhanced Value Program; Amount.**

The City shall make a Multi-Family Market-Rate Recapture Enhanced Value grant (“REV Grant”) in the up-to, maximum amount of \$12,996,885 to the Developer, partially payable beginning in the first year following the Substantial Completion of the Residential Improvements on the Project Parcel and its inclusion on the City tax rolls at full assessed value (the “Initial Year”) and ending on the earlier of: (i) 20 years thereafter, but not later than 2045 payable in 2046, or (ii) upon the expiration or earlier termination of the Southbank Community Redevelopment Area TIF (the “Southside CRA”), unless the City agrees to assume the obligations of the Southside CRA (as applicable, the “Final Year”), all as more fully described below in this Article 9.

## **9.2 Payments of REV Grant.**

The REV Grant shall be paid by the City to the Developer by check, in annual installments determined in accordance with Section 9.3, due and payable on or before May 15 of each calendar year, commencing May 15 of the Initial Year and ending May 15 of the Final Year, or when the maximum amount of the REV Grant shall have been paid to the Company, whichever occurs first. The City shall have no liability for any REV Grant in excess of the amount stated in Section 9.1 or after payment of the final installment due May 15 of the Final Year, and, except as expressly provided in this Agreement, the REV Grant payments as determined pursuant to Section 9.3 shall not be subject to reduction or repayment.

## **9.3 Determination of Annual Installments of REV Grant.**

The amount of each annual installment of the REV Grant shall be the sum which is equal to 75% of the “Annual Project Revenues” (as defined and determined in this Section 9.3) received by the City during the twelve (12) month period ended April 1 preceding the due date of such annual installment. For the purposes of this Agreement, “Annual Project Revenues” means the amount of all municipal and county ad valorem taxes (e.g., exclusive of, among other things, ad valorem real property taxes imposed by or on behalf of the Duval County Public Schools, St. Johns River Water Management District, or Florida Inland Navigation District), exclusive of any amount from any debt service millage or Business Improvement District (“BID”) millage, actually paid by any taxpayer for that tax year (net of any discount pursuant to Section 197.162, Florida Statutes, or any successor provision, actually taken by the taxpayer) during such period with respect to all real property and tangible personal property comprising the Project, less the amount of all municipal and county ad valorem taxes that would have been levied or imposed on the Project using the assessed value for the Base Year, which for the purpose of this Agreement shall be \$6,258,888.00 exclusive of any debt service millage. The foregoing references to ad valorem taxes shall be deemed to include any other municipal or county taxes, or other municipal or county fees or charges in the nature of or in lieu of taxes, that may hereafter be levied or imposed on the Developer with respect to real property or tangible personal property comprising the Project, in lieu of or in substitution for the aforesaid taxes and which are levied or imposed for general municipal or county purposes or shall be available for the City’s general fund, but not including stormwater or garbage fees or assessments.

By April 1 of each calendar year, commencing April 1 of the Initial Year and ending April 1 of the Final Year, Developer shall give written notice to the City of the amount of county ad valorem taxes paid during the preceding twelve (12) month period ending April 1, quantified by real property and tangible personal property amounts. If, by April 1 of any year, the Developer has failed to give notice of such taxes paid during the preceding twelve (12) month period, but Developer has timely paid such taxes for such year, Developer shall have the right to provide the written notice no later than

September 1 of such fiscal year, and in such event the Developer shall still be eligible for the REV Grant payment for that year. Further, if the Developer provides timely notice in future years in accordance with this Agreement, the Developer shall be eligible for a REV Grant payment based on the Annual Projected Revenues in such future year's notice.

Except as provided below, within thirty (30) days of receipt of said notice, City shall provide Developer with a calculation as to the annual REV Grant. If the Developer does not give written notice to the City of its objection to the City's calculation within thirty (30) days after its receipt thereof, the City's calculation shall be considered acceptable. Except as provided below, the City shall make payment of the REV Grant by the later of May 15th of each calendar year or thirty (30) days after City's receipt of notification by the Developer that it is in agreement with the City's annual calculation. In the event of a disagreement as to the calculation, the City shall make payment of the amount not in dispute and the parties shall negotiate in good faith any disputed amount.

The foregoing dates for the City to provide the REV Grant calculation and make the REV Grant payment shall be extended if on either of such dates the Developer has a pending proceeding before the City Value Adjustment Board, Circuit Court, or otherwise that could change the amount of the Annual Project Revenues that Company was obligated to pay for that tax year and upon which the REV Grant payment would be based. In that event, the date that the City is required to provide the REV Grant calculation to Developer shall be extended until 30 days after the date that Company notifies the City that any such proceeding has been finally resolved (including any appeals) and any adjustment to the Annual Project Revenues for that tax year has been made and paid. Such notice shall include (i) a copy of any final order or final judgment or other evidence of the resolution of such proceeding that sets forth any change to the assessed value of the Property upon which the Annual Project Revenues are based for that tax year, and (ii) the amount of the adjusted Annual Project Revenues paid by the Company.

#### **9.4 Further disclaimer.**

The REV Grant shall not be deemed to constitute a debt, liability, or obligation of the City, DIA or of the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation, or a pledge of the faith and credit or taxing power of the City, DIA or of the State of Florida or any political subdivision thereof, but shall be payable solely from the funds provided therefor in this Article 9. The City and DIA shall not be obligated to pay the REV Grant or any installment thereof except from the non-ad valorem revenues or other legally available funds provided for that purpose, and neither the faith and credit nor the taxing power of the City, DIA or of the State of Florida or any political subdivision thereof is pledged to the payment of the REV Grant or any installment thereof. The Developer, or any person, firm or entity claiming by, through or under the Developer, or any other person whomsoever, shall

never have any right, directly or indirectly, to compel the exercise of the ad valorem taxing power of the City, DIA or of the State of Florida or any political subdivision thereof for the payment of the REV Grant or any installment of either.

**Article 10.**  
**RESTAURANT COMPLETION GRANT**

**10.1 Restaurant Completion Grant; Amount.**

The Developer shall be eligible for a Restaurant Completion Grant (“RC Grant”) in the up to, maximum amount equal to fifty percent (50%) of the actual Direct Costs of the Restaurant Improvements, with such grant to be capped at \$500,000, payable upon Substantial Completion of the Restaurant Improvements. The Developer shall be responsible for all costs of the Restaurant Improvements in excess of the RC Grant amount actually paid pursuant to this Agreement. The City’s obligation to make each installment of the RC Grant is subject to the terms and conditions of this Agreement.

**10.2 Disbursement of RC Grant.**

Upon Substantial Completion of the Restaurant Improvements in accordance with the terms and conditions of this Agreement, the Developer is eligible for an up to \$500,000 RC Grant, subject to the terms and conditions to disbursement below.

(a) The Restaurant Improvements shall have been Substantially Completed in all respects in accordance with **Exhibit Q** attached hereto and in accordance with the Performance Schedule, consistent with the requirements of this Agreement and as verified by a final inspection report satisfactory to the DIA, certifying that the Restaurant Improvements have been constructed in a good and workmanlike manner and are in satisfactory condition. In accordance with Section 2.34 hereof, the Developer shall furnish to the DIA a certificate of substantial completion issued by the contractor and verified by the architect of record establishing that the Restaurant Improvements have been Substantially Completed and are not subject to any material violations or uncorrected conditions noted or filed in any City department.

(b) All property taxes on the Project Parcel must be current, and the Developer must be using commercially reasonable efforts to market the Restaurant Improvements for leases.

(c) No Event of Default with respect to Developer’s obligations under this Agreement has occurred or is continuing (provided, however, that, upon the occurrence of an event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default with respect to Developer’s obligations under this Agreement, the City may withhold any portion of the RC Grant immediately upon such occurrence and throughout any notice or cure period until such default is cured, and following the cure of such default shall disburse such withheld portion).

(d) The Developer shall submit to the DIA a proper contractor's final affidavit and full and complete releases of liens from each contractor, subcontractor and supplier, or other proof satisfactory to the DIA, confirming that final payment has been made for all materials supplied and labor furnished in connection with the Improvements and Restaurant Improvements, as applicable, or that, in the event of a dispute in any amount owed, such amount is properly bonded off pursuant to Florida law so that it will not become a lien on the Project Parcel or Restaurant Parcel;

(e) The disbursement request shall be made after Substantial Completion of the Restaurant Improvements and satisfaction of all conditions under this Agreement upon written application of Developer pursuant to a Disbursement Request in the form of attached **Exhibit P**. The Disbursement Request shall be accompanied by the following supporting data: (i) invoices, waivers of mechanic's and materialmen's liens obtained for payments made by Developer on account of Direct Costs for the Restaurant Improvements as of the date of the Disbursement Request, and (ii) AIA Forms G702 and G703 certified by the General Contractor and Design Professional for the completed Restaurant Improvements. The Disbursement Request shall constitute a representation by Developer that the Work done and the materials supplied to the date thereof are in accordance with the Plans and Specifications; that the Work and materials for which payment is requested have been physically incorporated into the Restaurant Improvements; that the value is as stated; that the Work and materials conform with all applicable rules and regulations of the public authorities having jurisdiction; that such Disbursement Request is consistent with the then current Budget; and that no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

(f) Developer shall take all action necessary to have any mechanic's and materialmen's liens, judgment liens or other liens or encumbrances filed against the Project Parcel (other than any consensual mortgage) released or transferred to bond within ten days of the date Developer receives notice of the filing of such liens or encumbrances. If any such lien or encumbrance is filed, the City shall not be required to make any disbursement of the RC Grant funds until such lien or encumbrance is bonded over or removed and the City receives a copy of the recorded release. The City shall not be obligated to disburse any of the RC Grant funds to Developer if, in the reasonable opinion of the City, any such disbursement or the Project or Project Parcel would be subject to a mechanic's or materialmen's lien or any other lien or encumbrance other than inchoate construction liens. Developer shall be fully and solely responsible for compliance in all respects whatsoever with the applicable mechanic's and materialmen's lien laws.

(g) The Developer shall deliver to the DIA an as-built survey within thirty (30) days after the Substantial Completion of the Restaurant Improvements as to any improvements that are to be owned by the City or are constructed on City-owned

property. Any change in the state of facts shown in any such updated survey shall be subject to reasonable approval by the DIA.

(h) The Developer shall have provided to the DIA, in form and substance reasonably satisfactory to the DIA, any such other document, instrument, information, agreement or certificate the DIA may reasonably require related to the construction or completion of the Improvements and Restaurant Improvements.

**10.3 No Warranty by City or DIA**

Nothing contained in this Agreement or any other document attached hereto or contemplated hereby shall constitute or create any duty on or warranty by City or the DIA regarding: (a) the accuracy or reasonableness of the Project budgets; (b) the feasibility or quality of the construction documents for the Project; (c) the proper application by the Developer of the RC Grant funds; (d) the quality or condition of the work; or (e) the competence or qualifications of any third party furnishing services, labor or materials in connection with the construction of the Project. Developer acknowledges that it has not relied and will not rely upon any experience, awareness or expertise of the City or DIA, or any City or DIA inspector, regarding the aforesaid matters.

**10.4 Further Disclaimer.**

The RC Grant shall not be deemed to constitute a debt, liability, or obligation of the City, DIA or of the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation, or a pledge of the faith and credit or taxing power of the City, DIA or of the State of Florida or any political subdivision thereof, but shall be payable solely from the funds provided therefor in this Article 10. The City and DIA shall not be obligated to pay the RC Grant or any installment thereof except from the non-ad valorem revenues or other legally available funds provided for that purpose, and neither the faith and credit nor the taxing power of the City, DIA or of the State of Florida or any political subdivision thereof is pledged to the payment of the RC Grant or any installment thereof. The Developer, and any person, firm or entity claiming by, through or under the Developer, or any other person whomsoever, shall never have any right, directly or indirectly, to compel the exercise of the ad valorem taxing power of the City, DIA or of the State of Florida or any political subdivision thereof for the payment of the RC Grant or any installment thereof.

**Article 11.  
NOTICE OF PARKING RIGHTS**

**11.1 City use of Parking Garage.**

Prior to Commencement of construction of the Parking Garage Improvements, the City will record a Notice of Parking Rights in the Public Records of Duval County sufficient to protect the City's interest in the City Spaces, and providing that the City will



have the right for so long as the Parking Garage Improvements exist to utilize on a rent-free basis the thirty (30) City Spaces in a location on the first or second floor of the Parking Garage Improvements as mutually agreed to between the Developer and City. Developer shall coordinate with its lenders to provide that the Notice of Parking Rights shall be superior in title to all other liens and encumbrances on the Project Parcel as shown by a title commitment obtained by Developer at its expense using Greenberg Traurig, P.A., as agent for Chicago Title Insurance Company, and in a form reasonably satisfactory to the DIA. City shall have the right to assign such use rights in the Parking Garage in its sole discretion, and shall promptly provide written notice of any such assignment to Developer. The City Spaces shall be used exclusively for the parking of non-commercial vehicles by the City, its employees, patrons, designees and general public for general short term parking. For the avoidance of doubt, City Spaces may not be used for (a) the parking of commercial vehicles, including, without limitation, City trucks and fleet vehicles or (b) residential parking for a residential development located outside of the Project Parcel. Developer shall install a gate in order to separate the residential parking spaces for the Project from the City Spaces and other guest spaces located in the Parking Garage.

#### **Article 12.**

### **GRANT OF EASEMENTS TO DEVELOPER BY CITY; RIVERWALK PARCEL; ADDITIONAL CITY OBLIGATIONS.**

#### **12.1 Grant of Temporary Construction Easements from City to Developer.**

At Closing of conveyance of the Project Parcel, the City shall grant the following temporary construction easements to the Developer, or its assignee, in connection with the Project:

- (a) the Marina Temporary Construction Easement;
- (b) the Riverwalk Temporary Construction Easement; and
- (c) a Temporary Demolition Easement in substantially the form as attached hereto as **Exhibit C.**

#### **12.2 Grant of Easements Upon Substantial Completion of Improvements.**

The City shall grant the following easement to the Developer, or its assignee, in connection with the Project upon Substantial Completion of the Improvements:

- (a) Non-exclusive, perpetual vehicular and pedestrian access easement to the loading area for the benefit of the Parking Garage, in form and substance as set forth on **Exhibit S** attached hereto (the "**Loading Area Easement**");
- (b) A non-exclusive, pedestrian easement over the Riverwalk Parcel to provide access to the Marina for the benefit of residents, guests and invitees of

improvements located on the Project Parcel, in form and substance as set forth on **Exhibit T** attached hereto (the “Riverwalk Access Easement”). The Riverwalk Access Easement shall also include self-help rights in favor of Developer, at its sole cost and expense and with prior written notice to the DIA and reasonable opportunity to cure, which shall grant Developer the right to maintain and repair the Riverwalk in the event the City fails to do so in accordance with the Riverwalk Access Easement and applicable laws, and a restrictive covenant regarding vertical development on the Riverwalk Parcel by the City; provided, however, that, any repairs to the bulkhead located in the Riverwalk Parcel shall be made at the City’s sole cost and expense and are not subject to self-help rights in favor of Developer.

At the earlier of Substantial Completion of the Project, or April 30, 2025, Developer shall execute and convey to the City the non-exclusive, pedestrian use and utility easement in substantially the form attached hereto as **Exhibit L** to provide for public pedestrian access to the Riverwalk along the western border of the Property and for the installation, repair, maintenance and replacement of the fuel lines for the USTs.

### **12.3 Riverwalk Parcel.**

The City shall retain the fee title to the Riverwalk Parcel, subject to a restrictive covenant included within the Riverwalk Access Easement in favor of Developer prohibiting the construction of vertical improvements greater than six (6) feet in height other than landscaping, cultural pieces, lighting fixtures, shade devices and signage within the Riverwalk.

### **12.4 Relocation of the USTs.**

Following Closing, the City, at its sole cost and expense, shall relocate and replace the USTs and related fuel pipes to a location on City-owned real property and/or within any City easement near the Project Parcel, and Developer shall grant a temporary construction easement substantially in the form attached hereto as **Exhibit R** prior to Commencement of the Riverwalk Improvements. Access by the Developer to the USTs shall be provided pursuant to the Marina Agreement, which shall provide Developer with self-help rights, at its expense, to maintain and repair the USTs in the event the City fails to do so in accordance with the Marina Agreement and applicable laws.

### **12.5 Marina Agreement and Submerged Land Lease.**

(a) Following Closing, but no later than February 1, 2022, Developer and City shall enter into that certain marina operation and maintenance agreement regarding the operation and maintenance of the Marina by Developer and/or its designee substantially in the form attached hereto as **Exhibit U** (the “Marina Agreement”). Pursuant to the Marina Agreement, Developer (and/or its designee) shall maintain at least twenty (20) of the slips on docks located at the Marina for public transient boat rental

use. Developer and DIA shall mutually agree on the location of the twenty (20) transient slips pursuant to the terms of the Marina Agreement. Ten (10) of the transient slips shall be available for use by the public for not more than four (4) hours per user, and ten (10) of the transient slips shall be available for use for not more than forty-eight (48) hours per user. The Marina Agreement shall also include, *inter alia*, provisions allowing Developer to use the Loading Area Easement in connection with the operation of the Marina and granting Developer the right to receive any income generated by the Marina, including without limitation any income generated by fuel sales at the Marina.

(b) Following Closing, but no later than February 1, 2022, the City shall enter into a submerged land lease by and between City and the State of Florida with respect to the Marina and adjacent submerged lands, which submerged land lease shall be recorded in the Public Records of Duval County, Florida. City agrees to keep Developer apprised of its efforts to obtain such submerged land lease.

#### **12.6 Stormwater Credits.**

Consistent with and pursuant to Chapter 55, Part 2, *Ordinance Code*, Developer may apply for and upon approval of such application and payment of the applicable fee the City shall convey any Water Quality Compensatory Credit(s) as necessary for the construction of the Improvements in accordance with this Agreement.

#### **12.7 Survival.**

The provisions of this Article 12 shall survive the Closing.

### **Article 13. THE DEVELOPMENT**

#### **13.1 Scope of Development.**

The Developer shall construct and develop or cause to be constructed and developed, the Improvements, which the Developer is obligated to construct and develop in accordance with the Performance Schedule (subject in all cases to authorized extensions of the applicable Performance Schedules contemplated by this Agreement including Force Majeure) and this Agreement.

#### **13.2 Cost of Development.**

Except as otherwise set forth in this Agreement, the Developer shall pay all costs of constructing and developing the Improvements incurred by Developer at no cost to the DIA or the City. For purposes of clarity, the City's and DIA's only financial obligations in connection with this Agreement are the financial obligations included in the City/DIA Obligations to be disbursed in accordance with the terms and conditions of this Agreement.

### **13.3 Approval by Other Governmental Agencies.**

All of the parties' respective rights and obligations under this Agreement are subject to and conditioned upon approval of the Project and all project documents by such other governmental agencies, whether state, local or federal, as have jurisdiction and may be required or entitled to approve them. Notwithstanding any provision of this Agreement to the contrary, neither the City nor the DIA guarantee approval of this Agreement or any aspect of the Project by any government authorities and agencies that are independent of the City.

### **13.4 Authority of DIA to Monitor Compliance.**

During all periods of design and construction, the CEO of the DIA and the City's Director of Public Works, or their respective designees, shall have the authority to monitor compliance by the Developer with the provisions of this Agreement. Insofar as practicable, the DIA shall coordinate such monitoring and supervising activity with those undertaken by the City so as to minimize duplicate activity. To that end, during the period of construction and with prior written notice to the Developer, representatives of the DIA and the City shall have the right of access to the Project Parcel and to every structure on the Project Parcel during normal construction hours, but such representatives shall not unreasonably interfere with the work in progress and such inspections shall not occur more frequently than once per month. All such entry shall be at the City and DIA's sole risk.

### **13.5 Timing of Completion.**

The Improvements shall be completed substantially in accordance with the terms of this Agreement and the Performance Schedule subject to extension of such timelines pursuant the terms of this Agreement including Force Majeure.

### **13.6 Construction and Operation Management.**

Except as otherwise expressly provided herein (and excluding the City Marina Improvements), the Developer shall have discretion and control, free from interference, interruption or disturbance, in all matters relating to the management, development, redevelopment, construction and operation of the Project (as their respective obligations are set forth in this Agreement), provided that the same shall, in any event, conform to and comply with the terms and conditions of this Agreement, and all applicable state and local laws, ordinances and regulations (including, without limitation, applicable zoning, subdivision, building and fire codes). The Developer's discretion, control and authority with respect thereto shall include, without limitation, the following matters:

- (a) the construction and design of the Project, subject to the express terms and conditions of this Agreement;

(b) the selection, approval, hiring and discharge of engineers, architects, contractors, subcontractors, professionals and other third parties (collectively, the “Vendors”) on such terms and conditions as the Developer deems appropriate (exclusive of the City Marina Improvements (as governed by the City Marina Improvements Costs Disbursement Agreement);

(c) the negotiation and execution of contracts, agreements, easements and other documents with third parties, in form and substance satisfactory to Developer; and

(d) the preparation of such budgets, cost estimates, financial projections, statements, information, and reports as the Developer deems appropriate.

#### **Article 14. JSEB PROGRAM**

##### **14.1 Jacksonville Small and Emerging Businesses (JSEB) Program.**

The Developer, in further recognition of and consideration for the public funds provided to assist the Developer pursuant to this Agreement, hereby acknowledge the importance of affording to small and emerging vendors and contractors the full and reasonable opportunity to provide materials and services. Therefore, the Developer hereby agree as follows:

The Developer shall obtain from the City’s Procurement Division the list of certified Jacksonville Small and Emerging Businesses (“JSEB”), and shall exercise commercially reasonable good faith, in accordance with Municipal Ordinance Code Sections 126.608 et seq., to enter into contracts with City certified JSEBs to provide materials or services in an aggregate amount of not less than \$2,799,377, which amount represents 20% of the City’s and DIA’s maximum contribution to the Project with respect to the development activities or operation of the Project over the term of this Agreement.

The Developer shall submit JSEB report(s) regarding their respective actual use of City certified JSEBs on the Project, (i) on the date of any request for City/DIA funds which are payable prior to the Substantial Completion of the Improvements, (ii) upon Substantial Completion of the Project and Improvements. The form of the report to be used for the purposes of this section is attached hereto as **Exhibit V** (the “JSEB REPORTING FORM”).

**Article 15.**  
**REPORTING**

**15.1 Reporting.**

On an annual basis, the Developer shall submit reports to the DIA regarding the status of construction of the Project and all other activities affecting the implementation of this Agreement, inclusive of the notice of ad valorem taxes paid pursuant to Section 9.3 hereof, including a narrative summary of progress on the Project. Samples of the general forms of these reports are attached hereto as **Exhibit W** (the “Annual Survey”); however, the specific data requested may vary from the forms attached. In addition, the Developer shall submit monthly construction reports in form and content reasonably acceptable to the DIA regarding the status of construction of the Project.

The Developer’ obligation to submit such reports shall continue until Developer has complied with all of the terms of this Agreement concerning the Project, the Improvements, Infrastructure Grant, and RC Grant and end upon Substantial Completion of the Improvements, except that the Developer shall continue its reporting requirements as required for the REV Grant for the remaining term of the REV Grant.

Within thirty (30) days following a written request of the DIA or the City, the Developer (as applicable) shall provide the DIA or the City with additional documentation and information relating to this Agreement as reasonably requested by the DIA or the City.

**Article 16.**  
**DEFAULTS AND REMEDIES**

**16.1 General.**

An “Event of Default” under this Agreement with respect to the Project shall consist of the breach of any covenant, agreement, representation, provision, or warranty (that has not been cured prior to the expiration of any applicable grace period or notice and cure period contained in this Agreement or such other documents, as applicable) contained in: (i) this Agreement; (ii) the documents executed in connection with the Agreement; (iii) any material document provided by the Developer to the City or DIA relating to the Project; or (iv) any default beyond the applicable cure periods under any and all financing agreements of the Developer relating to any portion of the Project that entitles the lender to accelerate or foreclose on the loan and exercise its remedies under the applicable loan documents (collectively, the “Project Documents”), and the failure to cure any such breach within the cure periods set forth below.

With the exception of defaults in connection with the Performance Schedule, for which no notice or cure period is required; provided, however, that no occurrence under (i) - (iv) above shall constitute an Event of Default until the City has given the Developer

written notice of the default and thirty (30) calendar days within which to cure the default; provided, however, that the City/DIA may withhold any portion the REV Grant, Infrastructure Grant and RC Grant immediately upon the occurrence of a default and throughout any notice or cure period until such default is cured. If any default cannot reasonably be cured within the initial thirty (30) calendar days, no Event of Default shall be deemed to occur so long as the Developer has commenced and is diligently implementing a cure within such thirty (30) day period and diligently pursues such cure to a conclusion.

If any such Event of Default occurs under this Agreement, with respect to the Project, the City may refuse to pay any portion of the REV Grant, Infrastructure Grant, and RC Grant, and additionally the City may at any time or from time to time proceed to protect and enforce all rights available to the City and DIA under this Agreement with respect to the Project by suit in equity, action at law or by any other appropriate proceeding whether for specific performance of any covenant or agreement contained in this Agreement, or damages, or other relief (provided, however, that in no event shall the Developer be liable to the City or DIA for any punitive, speculative, or consequential damages of any kind), or proceed to take any action authorized or permitted under applicable laws or regulations. Notwithstanding the foregoing, the Developer shall immediately and automatically be in default with respect to the Project, and the City shall not be required to give the Developer any notice or opportunity to cure such default (and thus the City/DIA shall immediately be entitled to act upon such default), upon the occurrence of any of the following: should the Developer make any assignment for the benefit of creditors; or should a receiver, liquidator, or trustee of the Developer of any of the Developer's property be appointed; or should any petition for the adjudication of bankruptcy, reorganization, composition, arrangement or similar relief as to the Developer, pursuant to the Federal Bankruptcy Act or any other law relating to insolvency or relief for debtors, be filed by Developer; or should the Developer be adjudicated as bankrupt or insolvent; or should the Developer be liquidated or dissolved; or should an involuntary petition seeking to adjudicate the Developer as a bankrupt or to reorganize the Developer be filed against the Developer and remain undismissed for a period of ninety (90) days after the filing date thereof.

## **16.2 Breach by City.**

No occurrence shall constitute an Event of Default until the Developer has given the City written notice of the default and thirty (30) calendar days within which to cure the default. If any default cannot reasonably be cured within the initial thirty (30) calendar days, no Event of Default shall be deemed to occur so long as the defaulting party has commenced and is diligently implementing a cure within such thirty (30) day period and diligently pursues such cure to a conclusion. If the City commits an Event of Default under this Agreement, Developer shall have, in addition to the remedies expressly provided herein, all remedies allowed by law or equity; provided, however, that in no event shall the City be liable to Developer for any punitive, speculative, or

consequential damages of any kind, and notwithstanding anything herein, in no event shall the City be liable for any costs or damages exceeding the maximum indebtedness amount described in Section 1.6 for any and all City and DIA obligations at issue.

Notwithstanding anything to the contrary in this Agreement, in the event (i) an Event of Default by Developer with respect to Developer's obligations under this Agreement has occurred and is continuing, or (ii) an event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default by Developer with respect to Developer's obligations under this Agreement has occurred and is continuing, City and DIA as applicable shall have no obligation to disburse any portion of the RC Grant, Infrastructure Grant or REV Grant; provided, however, that, if such event is cured within the applicable notice and cure period under this Agreement and prior to September 1 of such year, then the Developer shall be eligible for the applicable payment.

### **16.3 Specific Defaults.**

Additionally, for any of the specific Events of Default described in this Section 16.3 below, the parties agree that the City's and DIA's damages recoverable from the Developer shall include, but not be limited to, the following:

(a) in the event reporting requirements are not met in the time period specified in Article 15 of this Agreement and such default is not cured within the time period provided in Section 16.1 hereof after written notice from the City and DIA, the City and DIA will be entitled to withhold any undisbursed amount of the REV Grant; provided, however, that if Developer satisfies such reporting requirements at a later date and before September 15 of the same fiscal year, Developer shall have the right to the disbursement of any withheld amounts;

(b) in the event Developer fails to Substantially Complete construction of the Project by the Completion Date above, subject to extensions due to Force Majeure or other extensions pursuant to this Agreement, the REV Grant shall be (i) reduced by five percent (5%) for every two (2) month delay following the Completion Date, and (ii) forfeited if the Project is not Substantially Complete within two (2) years following the Completion Date;

(c) If, by the Completion Date, the Developer fails to invest or cause the investment of at least \$85,000,000 of Capital Investment in the Project, the REV Grant will be reduced proportionately. If, by the Completion Date, the Developer fails to invest or cause the investment of at least \$76,500,000 of Capital Investment in the Project, the REV Grant will be terminated and the Company will repay the City the entire amount of the REV Grant that has been previously paid to the Developer, if any.

In the event that the Developer fails to Commence construction of the Residential Improvements and Parking Garage Improvements in accordance with the terms of this



Agreement and the Performance Schedule, subject to extensions as set forth in this Agreement, including for Force Majeure, and such failure continues for more than thirty (30) days after the Developer's receipt of written notice of its failure to do so, the City may exercise the Repurchase Right for the Project Parcel. Developer shall cooperate and execute all documents reasonably necessary to demonstrate that its interest in the Project Parcel has ceased and that the Project Parcel has been conveyed to the City. The instruments of conveyance shall be substantially the same as those executed and delivered upon conveyance of the Project Parcel to the Developer, except that the conveyance shall be made by special warranty deed. If the Developer has encumbered all or any portion of the Project Parcel with a mortgage, security agreement or the Project Parcel has other liens placed on it, the Developer shall secure a full release of the same and the cost of paying or discharging the same in full shall be at the Developer's sole expense. Developer shall incur all costs incurred in reconveying the Project Parcel to the City. Ad valorem taxes will be prorated between the Developer and the City as of the date of reconveyance of title to the Project Parcel.

If any streets, roads or alleys within or without the Project Parcel have been vacated by the City prior to any conveyance or reconveyance to the City hereunder, then the Developer shall include in such reverter, or if necessary in such conveyance or reconveyance all right, title and interest which the Developer acquired pursuant to such vacation.

Once the Developer has Commenced construction of the Residential Improvements and Parking Garage Improvements in accordance with this Agreement, the City's Repurchase Right to the Project Parcel shall terminate. Said termination of the Repurchase Right shall be evidenced by the recording of a document duly executed by the City evidencing the termination of the Repurchase Right.

#### **16.4 Liens, Security Interests.**

The DIA and City and agree and acknowledge that this Agreement does not create any security interest in the Project.

The City is also entitled to prejudgment interest from the date of default plus costs and attorney's fees incurred by the City.

### **Article 17.**

#### **ANTI-SPECULATION AND ASSIGNMENT PROVISIONS**

##### **17.1 Purpose.**

The Developer represents and agrees that its acquisition of the Project Parcel and undertakings pursuant to this Agreement are for the purpose of developing the Project Parcel pursuant to this Agreement and not for speculation in land holding. The Developer further recognizes, in view of the importance of the development of the

Project Parcel to the general health and welfare of the City, that the qualifications, financial strength and identity of the principal shareholders and executive officers of the Developer are of particular concern to the City and the DIA.

### **17.2 Assignment; Limitation on Conveyance.**

Developer agrees that, with respect to the Project, until the (a) Substantial Completion of the Improvements applicable to the Project, it shall not, without the prior written consent of the DIA (which consent shall not be unreasonably withheld), assign, transfer or convey (i) the Project or any portion thereof, (ii) the Project Parcel or any portion thereof, (iii) this Agreement or any provision hereof as it relates to the Project, or (iv) a controlling interest in the Developer. If any such prohibited assignment, transfer or conveyance is made, the obligation of the City to pay any further amounts of the REV Grant, Infrastructure Grant or RC Grant to the Developer shall immediately terminate. Notwithstanding the foregoing, Developer may assign, transfer or convey items (i)-(iv) above to an entity in which the principals of Developer have a majority or controlling interest without the prior written consent of the City and DIA; provided, however, that no such assignment, transfer or conveyance shall release Developer from any liability or obligation hereunder, and provided any assignee of such assignment enters into an assignment and assumption agreement in form and content as acceptable to the DIA in its reasonable discretion. In addition, (a) interests in the Developer may be assigned, transferred or conveyed to tax credit investors without limitation, (b) Developer may collaterally assign its rights and obligations pursuant to this Agreement to any lender providing financing for the Project and any foreclosure or similar action and subsequent assignment by such lender or its assignees shall constitute a permitted assignment pursuant to this Agreement. In connection with any such collateral assignment and transfers by the lender contemplated herein, DIA and City agree to execute a consent reasonably acceptable to such lender, and such lender or assignee shall enter into an assignment and assumption agreement in form and content as reasonably acceptable to City and DIA.

If any Event of Default under the terms of the Agreement shall occur, then and in any such event, the City shall, give written notice of such default(s) ("Notice of Default") to Developer's lender at its address as noticed to City and DIA by certified mail, return receipt requested pursuant to Section 18.4 hereof, specifying the event of default and the methods of cure, or declaring that an event of default is incurable. During the period of one hundred twenty (120) days commencing upon the date the Notice of Default was given to Developer's lender, Developer's lender may cure any Event of Default. Notwithstanding the foregoing, in the event the Developer has not provided written notice to the City and DIA by certified mail, return receipt requested pursuant to Section 18.4 of the name, address and contact information of Developer's lender or such notice has not been acknowledged by the Finance and Compliance Manager of the City (provided, however, that a return receipt obtained by Developer shall be sufficient for



Attn: Corporation Secretary

The Developer: RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, FL 33133  
Attn: Steve Patterson  
Email: [spatterson@relatedroup.com](mailto:spatterson@relatedroup.com)

Lender: [To be provided by Developer per Section 17.2]

\_\_\_\_\_  
\_\_\_\_\_

With a copy to: Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attn: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

**18.4 Time.**

Time is of the essence in the performance by any party of its obligations hereunder.

**18.5 Entire Agreement.**

This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

**18.6 Amendment.**

This Agreement may be amended by the parties hereto only upon the execution of a written amendment or modification signed by the parties. Notwithstanding the foregoing, the CEO of the DIA is authorized on behalf of the DIA and the City to approve, in his or her sole discretion, any “technical” changes to this Agreement. Such “technical” changes include, without limitation, non-material modifications to legal descriptions and surveys, ingress and egress, easements and rights of way, Performance Schedule (for up to six months) and design standards, as long as such modifications do not involve any increased financial obligation or liability to the City or the DIA.

### **18.7 Waivers.**

Except as otherwise provided herein, all waivers, amendments or modifications of this Agreement must be in writing and signed by all parties. Any failures or delays by any party in insisting upon strict performance of the provisions hereof, or asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by any other party.

### **18.8 Indemnification.**

Developer shall indemnify, hold harmless and defend the City of Jacksonville, DIA and their respective members, officials, officers, employees and agents from and against, without limitation, any loss, claim, suit, action, actual damage, injury, liability, fine, penalty, cost, and expense of whatsoever kind or nature (including, without limitation, court, investigation and defense costs and reasonable expert and attorneys' fees and costs) related to any suits and actions brought against the City, DIA and their respective members, officials, officers, employees and agents or other damages or losses incurred or sustained, or claimed to have been incurred or sustained, by any person or persons, arising out of or in connection with: (i) any breach of any representation or warranty of Developer, contained in this Agreement; (ii) any breach or violation of any covenant or other obligation or duty of Developer under this Agreement or under applicable law; (iii) any negligent act, error or omission, or intentionally wrongful conduct on the part of Developer or those under its control that causes injury to persons (including death) or damage to property, whether arising out of or incidental to Developer's performance under this Agreement or relating to the Project, except to the extent caused by the negligence or willful misconduct of the City and/or DIA. Nothing contained in this paragraph shall be construed as a waiver, expansion or alteration of the City's sovereign immunity beyond the limitations stated in Section 768.28, Florida Statutes.

This indemnification shall survive the expiration or termination (for any reason) of this Agreement and remain in full force and effect. The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to this Agreement or otherwise. The terms "City" and "DIA" as used in this Section 18.9 shall include all officers, board members, City Council members, employees, representatives, agents, successors and assigns of the City and the DIA, as applicable.

### **18.9 Severability.**

The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect any other provisions of this Agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

### **18.10 Compliance with State and Other Laws.**

In the performance of this Agreement, the Developer must comply with any and all applicable federal, state and local laws, rules and regulations, as the same exist and may be amended from time to time. Such laws, rules and regulations include, but are not limited to, Chapter 119, Florida Statutes, (the Public Records Act) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract.

### **18.11 Non-Discrimination Provisions.**

In conformity with the requirements of Section 126.404, *Ordinance Code*, the Developer represents that it has adopted and will maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employment relations, throughout the term of this Agreement. The Developer agrees that, on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records, by the Executive Director of the Human Rights Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement; *provided however*, that the Developer shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. The Developer agree that, if any of its obligations to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Section 18.12 shall be incorporated into and become a part of the subcontract.

### **18.12 Contingent Fees Prohibited.**

In conformity with Section 126.306, *Ordinance Code*, Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Developer, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Developer, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, the City and DIA shall have the right to terminate this Agreement without liability and, at its discretion, to

deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

**18.13 Ethics.**

The Developer represents that it has reviewed the provisions of the Jacksonville Ethics Code, as codified in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, as codified in Chapter 126, *Ordinance Code*.

**18.14 Conflict of Interest.**

The parties will follow the provisions of Section 126.110, *Ordinance Code*, with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with the City, to the extent the parties are aware of the same.

**18.15 Public Entity Crimes Notice.**

The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business in excess of \$35,000.00 with any public entity for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

**18.16 Survival.**

Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and remain in effect. Without limiting the foregoing, all obligations for the payment of fees or other sums accruing up to the expiration or termination of this Agreement and all provisions relating to the City's right to conduct an audit shall survive the expiration or termination of this Agreement.

**18.17 Incorporation by Reference.**

All exhibits and other attachments to this Agreement that are referenced in this Agreement are by this reference made a part hereof and are incorporated herein.

**18.18 Order of Precedence.**

In the event of any conflict between or among the provisions of this Agreement and those of any exhibit attached hereto or of any amendment, the priority, in decreasing

order of precedence shall be: 1) any fully executed amendment; 2) provisions in this Agreement; and 3) exhibits to this Agreement.

**18.19 Counterparts.**

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

**18.20 Independent Contractor.**

In the performance of this Agreement, the Developer will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer or association of the City or the DIA. The Developer and their respective employees or agents shall be solely responsible for the means, method, technique, sequences and procedures utilized by the Developer in the performance of this Agreement.

**18.21 Retention of Records/Audit**

The Developer agrees:

(a) To establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by the City under this Agreement.

(b) To retain, with respect to each Project, all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of six (6) years after completion of the date of final payment by the City under this Agreement with respect to such Project. If an audit has been initiated and audit findings have not been resolved at the end of six (6) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the City.

(c) Upon demand, at no additional cost to the City, to facilitate the duplication and transfer of any records or documents during the required retention period.

(d) To assure that these records shall be subject at all reasonable times to inspection, review, copying, or audit by personnel duly authorized by the City, including but not limited to the City Council Auditors.

(e) At all reasonable times for as long as records are maintained, to allow persons duly authorized by the City, including but not limited to the City



Council Auditors, full access to and the right to examine any of the Developer's contracts and related records and documents, regardless of the form in which kept.

(f) To ensure that all related party transactions are disclosed to the City.

(g) To include the aforementioned audit, inspections, investigations and record keeping requirements in all subcontracts and assignments of this Agreement.

(h) To permit persons duly authorized by the City, including but not limited to the City Council Auditors, to inspect and copy any records, papers, documents, facilities, goods and services of the Developer which are relevant to this Agreement, and to interview any employees and subcontractor employees of the Developer to assure the City of the satisfactory performance of the terms and conditions of this Agreement. Following such review, the City will deliver to the Developer a written report of its findings and request for development by the Developer of a corrective action plan where appropriate. The Developer hereby agrees to timely correct all deficiencies identified in the corrective action plan.

(i) Additional monies due as a result of any audit or annual reconciliation shall be paid within thirty (30) days of date of the City's invoice.

(j) Should the annual reconciliation or any audit reveal that the Developer owe the City or DIA additional monies, and the Developer do not make restitution within thirty (30) days from the date of receipt of written notice from the City, then, in addition to any other remedies available to the City, the City may terminate this Agreement, solely at its option, by written notice to the Developer.

#### **18.22 Non-merger.**

None of the terms, covenants, agreements or conditions set forth in this Agreement shall be deemed to be merged with any deed conveying title to the Project Parcel.

#### **18.23 Exemption of City and DIA.**

Neither this Agreement nor the obligations imposed upon the City or DIA hereunder shall be or constitute an indebtedness of the City or DIA within the meaning of any constitutional, statutory or charter provisions requiring the City to levy ad valorem taxes, or a lien upon any properties of the City or DIA. Payment or disbursement by the City or DIA of grant amounts hereunder is subject to the availability of lawfully appropriated funds. If funds are not available pursuant to a lawful appropriation thereof

by the City Council or DIA Board, this Agreement shall be void and the City shall have no further obligations hereunder.

**18.24 Parties to Agreement; Successors and Assigns.**

This is an agreement solely between the DIA, the City and Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto. Subject to the limitations contained in Section 17.2, this Agreement shall be binding upon and benefit Developer, and Developer' successors and assigns, and shall be binding upon and benefit of the City and DIA, and their successors and assigns. However, Developer except as contemplated in Section 17.2, shall not assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith without the prior written consent of the City and the DIA, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Developer may assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith to an entity in which the principals of Developer have a controlling interest without the prior written consent of City and the DIA; provided, however, that no such assignment, transfer or conveyance shall release Developer from any liability or obligation hereunder.

**18.25 Venue; Applicable Law.**

The rights, obligations and remedies of the parties specified under this Agreement shall be interpreted and governed in all respects by the laws of the State of Florida. All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Duval County, Florida, or in the U.S. District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

**18.26 Civil Rights.**

The Developer agree to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the City Ordinance Code, and further agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin.

**18.27 Further Assurances.**

Each party to this Agreement will, on request of any other party,

- (a) promptly correct any defect, error or omission herein;
- (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts reasonably deemed necessary, desirable or proper by

the such requesting party to carry out the purposes of this Agreement and to identify and subject to the liens of this Agreement any property intended to be covered thereby, including any renewals, additions, substitutions replacements, or appurtenances to the subject property;

(c) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts reasonably deemed necessary, desirable or proper by the requesting party to carry out the purposes of this Agreement.

#### **18.28 Exhibits.**

In the event of a conflict between any provisions of this Agreement and any exhibit attached to or referenced in this Agreement, the provisions of this Agreement shall govern.

#### **18.29 Construction.**

All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Developer further acknowledges that it has had ample time to review this Agreement and related documents with counsel of its choice. Any doubtful or ambiguous provisions contained herein shall not be construed against the party who drafted the Agreement. Captions and headings in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

#### **18.30 Further Authorizations.**

The parties acknowledge and agree that the Mayor of the City, or his designee, and the City's Corporation Secretary and the Chief Executive Officer of DIA, or their respective designees, are hereby authorized to execute any and all other contracts and documents and otherwise take all necessary action in connection with this Agreement.

#### **18.31 Estoppel Certificate.**

Within ten (10) business days after request therefor from either Developer, or from the City or DIA to the Developer, the Developer, City and DIA, as applicable, agree to execute and deliver to the applicable parties, or to such other addressee or addressees as a Developer or City or DIA may designate (and any such addressee may rely thereon), a statement in writing certifying (if true) that this Agreement as it relates to the Project is in full force and effect and unmodified or describing any modifications; that the Developer (or City or DIA, as applicable) has performed all of its obligations under this Agreement arising prior to the date of the certificate, and making such other true representations as may be reasonably requested by Developer or City or DIA, as applicable.

**18.32 Attorney's Fees.**

Except as otherwise specifically set forth herein, each party shall be responsible for its own attorneys' fees and costs in connection with any legal action related to this Agreement.

**18.33 WAIVER OF JURY TRIAL.**

CITY, DIA AND DEVELOPER HEREBY VOLUNTARILY, KNOWINGLY, AND INTENTIONALLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

**IN WITNESS WHEREOF**, this Agreement is executed the day and year above written.

ATTEST:

**CITY OF JACKSONVILLE**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

By: \_\_\_\_\_  
Lenny Curry, Mayor

WITNESS:

**DOWNTOWN INVESTMENT AUTHORITY**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Lori N. Boyer, CEO

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Form Approved:

\_\_\_\_\_  
Office of General Counsel

GC-#1415108-v17-  
Related\_Development\_LL\_C\_RDA\_(Maritime\_Concepts).doc

WITNESS:

**DEVELOPER**

**RD RIVER CITY BREWERY, LLC**, a Florida  
limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

In accordance with Section 24.103(e), of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *provided however*, this certification is not nor, shall it be interpreted as an encumbrance of funding under this Contract. Actual encumbrance[s] shall be made by subsequent check request[s], as specified in said Contract.

---

Director of Finance

## **LIST OF EXHIBITS**

Exhibit A	Project Parcel
Exhibit B	Marina Dock A Description
Exhibit C	Temporary Demolition Easement
Exhibit D	MOSH Property
Exhibit E	Parking Garage Improvements
Exhibit F	Restaurant Parcel
Exhibit G	Riverwalk Design Criteria
Exhibit H	Riverwalk Improvements
Exhibit I	Riverwalk Parcel
Exhibit J	Quit Claim Deed with Repurchase Right
Exhibit K	Right of 1 <sup>st</sup> Refusal
Exhibit L	Pedestrian Access and Utility Easement to City
Exhibit M	City Marina Improvements Costs Disbursement Agreement
Exhibit N	Marina Temporary Construction Easement
Exhibit O	Riverwalk Temporary Construction Easement
Exhibit P	Disbursement Request Form
Exhibit Q	Restaurant Improvements
Exhibit R	USTs and Fuel Line Temporary Construction Easement
Exhibit S	Loading Area Easement
Exhibit T	Riverwalk Access Easement
Exhibit U	Marina Agreement



Exhibit V     JSEB Reporting Form

Exhibit W     Annual Survey

# EXHIBIT A



# EXHIBIT B

## **EXHIBIT B**

### **Marina Dock A Description**

The reconstruction of Dock A will be located in approximately the same location as the westerly most dock as shown in the marina site plan below. Dock A will provide a minimum of thirty (30) slips of which ten (10) will be maintained for short term transient use defined as up to four (4) hours, and an additional 10 slips will be maintained for overnight transient use defined as up to fortyeight (48) hours. Dock A will provide access to fuel pumps for public boaters, and will provide electricity, water, and pump out facilities for boater tenants. Signage for transient slips will be maintained to allow public boaters clear indication of slips available for their short term use.



MAP SHOWING

RECEIVED

AUG 19 1999

DEPT. OF ENV. & NAT. RES.   
 NORTHEAST DISTRICT

SUBMERGED LAND LEASE PARCEL

PARCEL "F"

A portion of submerged lands lying within the St. Johns River, Section 44, Isaac Hendricks Grant, Township 2 South, Range 28 East, in Duval County, Florida, and being more particularly described as follows:

COMMENCE at the intersection of the Northerly right-of-way line of Gulf Life Drive, (a 50 foot right-of-way), with the Westerly right-of-way line of Durand Avenue, (a 50 foot right-of-way); Thence North 03°08'29" East, along said Westerly right-of-way line of Durand Avenue, a distance of 362.18 feet to the Northerly face of an existing concrete bulkhead line of the St. Johns River; Thence North 64°23'02" East, along the Northerly face of said concrete bulkhead, a distance of 54.19 feet; Thence North 22°29'40" East, a distance of 187.18 feet to the Northerly face of an existing concrete bulkhead line of the St. Johns River and the POINT OF BEGINNING; Thence South 64°30'56" West, a distance of 48.00 feet; Thence North 25°29'04" West, a distance of 274.00 feet; Thence South 64°30'56" West, a distance of 10.00 feet; Thence North 25°28'04" West, a distance of 52.50 feet; Thence North 64°53'24" East, a distance of 12.74 feet; Thence North 25°08'36" West, a distance of 20.00 feet; Thence North 64°53'24" East, a distance of 104.00 feet; Thence South 25°08'36" East, a distance of 20.00 feet; Thence North 64°53'24" East, a distance of 115.00 feet; Thence North 25°08'36" West, a distance of 20.00 feet; Thence North 64°53'24" East, a distance of 104.00 feet; Thence South 25°08'36" East, a distance of 20.00 feet; Thence North 64°53'24" East, a distance of 12.70 feet; Thence South 25°26'32" East, a distance of 53.00 feet; Thence South 64°33'28" West, a distance of 10.00 feet; Thence South 25°20'32" East, a distance of 282.58 feet to the Northerly face of an existing concrete bulkhead line of the St. Johns River; Thence South 85°10'27" West, along the Northerly face of said concrete bulkhead, a distance of 31.32 feet; Thence continuing along the northerly face of said concrete bulkhead, South 64°34'33" West, a distance of 251.89 feet to the POINT OF BEGINNING.

Containing 2.58 Acres, more or less

Attachment A  
 Page 2 of 15 Pages  
 S.S.L. No. 161181122

SEE SHEET 1 FOR GENERAL NOTES AND LEGEND

SHEET 3 OF 3

1	0012	Submerged Land Lease/Other	AS
NO.	DATE	DESCRIPTION	BY

PARTY (SHEET): CORNELL F.S. 9-1 PL. 80-68 (480 PLS. LEASE/99) DRAFTER: MERRY JOB No. 89-238

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RUBBED SEAL OF A FLORIDA LICENSED SURVEYOR AND SUFFER THIS DRAWING, SKETCH, PLAN OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

I HEREBY CERTIFY THAT THE ABOVE LANDS WERE SURVEYED UNDER MY PERSONAL SUPERVISION AND CONTROL AND THAT THE SURVEY SHOWS ACCORDS WITH THE SURVEY TECHNIQUE REQUIREMENTS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS IN ACCORDANCE WITH CHAPTER 473, F.S. FLORIDA ADMINISTRATIVE CODE, PARAGRAPH 6B-2.0301, EFFECTIVE FLORIDA STATUTES.

DATE MAY 7 1999  
 SCALE N/A

**Clary & Associates, Inc.**  
 PROFESSIONAL LAND SURVEYORS  
 3630 CROWN POINT ROAD SUITE "A"  
 JACKSONVILLE, FLORIDA 32217  
 (904) 250-2703

*[Signature]*

**LEGEND**  
 A = REAL FOUND  
 B = CORRECTED MEASUREMENT FOUND  
 C = NEW POINT FOUND  
 X = CORRECTED POINT FOUND  
 - = POINT

# EXHIBIT C



**EXHIBIT C**

Temporary Demolition Easement

Temporary Demolition Easement

THIS INSTRUMENT PREPARED BY  
AND RECORD AND RETURN TO:

John C. Sawyer, Jr.  
Chief, Gov. Operations Dept.  
City of Jacksonville  
117 W. Duval St., Suite 480  
Jacksonville, FL 32202

**TEMPORARY DEMOLITION EASEMENT**

**THIS TEMPORARY DEMOLITION EASEMENT** (this “Easement Agreement”) is made as of \_\_\_\_\_, 2021, by and between the **CITY OF JACKSONVILLE**, a body politic and municipal corporation existing under the laws of the State of Florida, whose mailing address is c/o Downtown Investment Authority, 117 W. Duval Street, Suite 310, Jacksonville, Florida 32202, hereinafter called the Grantor, to **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, whose address is 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133, hereinafter called the Grantee.

**WITNESSETH:** in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be mutually bound do hereby agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey to Grantee, its successors and assigns a temporary, non-exclusive easement for the purposes of demolition of the existing structures on the Project Parcel (as such term is defined in that certain Redevelopment Agreement between Grantor and Grantee dated \_\_\_\_\_) (the “Demolition”), to be undertaken by Grantee on, over, under, through, and across the following described land in Duval County, Florida:

See Exhibit A attached hereto and incorporated herein (the “Easement Premises”).

2. Term of Easement. This Easement Agreement shall automatically expire and terminate upon the earlier of: (x) completion of the Demolition, or (y) September 30, 2022; provided however that upon the written request of the Grantor, Grantee shall execute and deliver for recordation a termination of this Easement Agreement.

3. Indemnification. Grantee hereby agrees to , and to cause its third party contractors performing work on the Project to (with the City named as intended third-party beneficiary), indemnify, defend and save Grantor and its members, officers, employees, agents, successors-in-interest and assigns (the “Indemnified Parties”) harmless from and against any and all claims, action, losses, damage, injury, liability, cost and expense of whatsoever kind or nature (including but not by way of limitation, attorneys’ fees and court costs) arising out of injury or death to persons or damage to or loss of property arising out of or alleged to have arisen out of or occasioned by exercise by Grantee or its successors, assigns, contractors, employees, representatives, directors, officers, invitees or agents of the easement rights hereunder granted, except to the extent such injury or death to persons or damage to or loss of property shall have been caused by the gross negligence of the Indemnified Parties. The provisions of this paragraph shall survive the expiration or termination of this Easement Agreement.

4. Insurance. See Exhibit B attached hereto and incorporated herein by this reference for the insurance requirements of Grantee.

5. Successors and Assigns. The burdens of this Easement Agreement shall run with title to the Easement Premises, and all benefits and rights granted hereunder shall be appurtenant to the interest of the parties hereto. This Easement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

6. Use; Compliance with Laws. Subject to the provisions hereof, Grantee shall have the right to use the Easement Premises for the purpose stated in paragraph 1 above and for no other purpose without the prior written consent of Grantor (which consent may be withheld in Grantor’s sole discretion). Grantor shall continue to enjoy the use of the Easement Premises for any and all purposes not inconsistent with Grantee’s rights hereunder. Grantee shall comply with all laws, rules and regulations, orders and decisions of all governmental authorities, respecting the use of and operations and activities on the Easement Premises, including, but not limited to, environmental, zoning and land use regulations. Grantee shall not make, suffer or permit any unlawful use of the Easement Premises, or any part thereof.

7. Severability. The invalidity of any provision contained in this Easement Agreement shall not affect the remaining portions of this Easement Agreement, provided that such remaining portions remain consistent with the intent of this Easement Agreement and do not violate Florida law, which law shall govern this Easement Agreement.

8. Construction. The parties acknowledge that each party has reviewed and revised this Easement Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Easement Agreement.

9. Notices. Any notice, demand, consent, authorization, request, approval or other communication (collectively, “Notice”) that any party is required, or may desire, to give to or make upon the other party pursuant to this Agreement shall be effective and valid only if in writing, signed by the parties giving such Notice, and delivered personally to the other parties or sent by

express 24-hour guaranteed courier or delivery service, or by registered or certified mail of the United States Postal Service, postage prepaid and return receipt requested, addressed to the other parties and sent simultaneously as follows (or to such other place as any party may by Notice to the other specify):

To Grantor: City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attn: Lori Boyer  
Email: [boyerl@coj.net](mailto:boyerl@coj.net)

With a copy to: Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: Corporation Secretary

To Grantee: RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attn: Steve Patterson  
Email: [spatterson@relatedroup.com](mailto:spatterson@relatedroup.com)

With a copy to: Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attn: Kimberly S. LeCompte, Esq.  
Email: [lcomptek@gtlaw.com](mailto:lcomptek@gtlaw.com)

Notices shall be deemed given when received, except that if delivery is not accepted, Notice shall be deemed given on the date of such non-acceptance. The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.

10. Modification and Waiver. This Agreement shall not be modified or amended and no waiver of any provision shall be effective unless set forth in writing and signed by both parties.

11. Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Any action or proceeding arising out of or relating to this Agreement shall be brought in Duval County, Florida, either in the State or Federal courts. Both parties hereby waive any objections to the laying of venue in any such courts.

12. Attorneys Fees. If any lawsuit, arbitration or other legal proceeding (including, without limitation, any appellate proceeding) arises in connection with the interpretation or

enforcement of this Easement Agreement, each party shall be responsible for its own costs and expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection therewith, in preparation therefor and on appeal therefrom.

13. WAIVER OF RIGHT TO TRIAL BY JURY. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

**[Signatures on following page.]**

IN WITNESS WHEREOF, the Grantor and Grantee have signed and sealed these presents to be effective the day and year first written above.

ATTEST:

CITY OF JACKSONVILLE

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

\_\_\_\_\_  
Lenny Curry, Mayor

Form Approved:

By: \_\_\_\_\_  
Office of General Counsel

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**RD RIVER CITY BREWERY, LLC, a  
Florida limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, on behalf of the company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

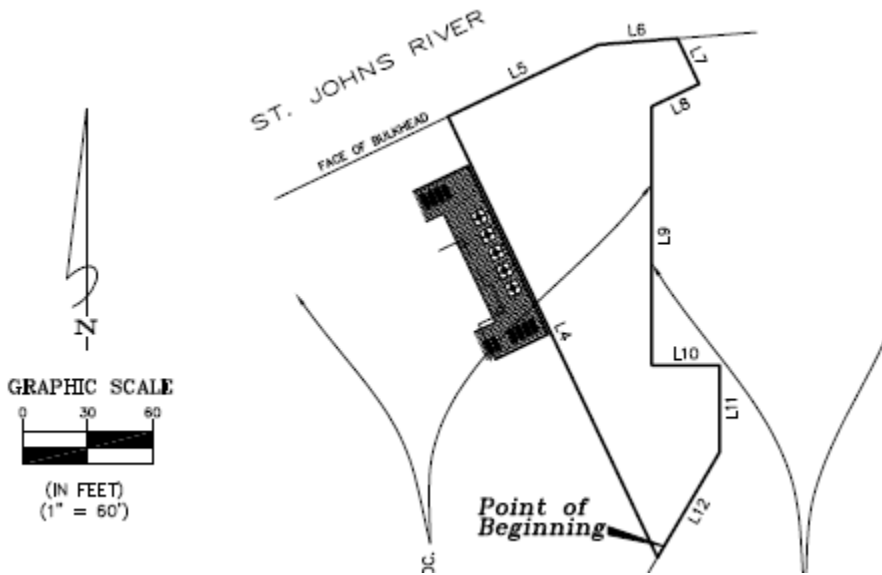
[NOTARIAL SEAL]

## EXHIBIT A to Temporary Demolition Easement

A PORTION OF BLOCK 5, L'ENGLE'S SUBDIVISION, RECORDED IN PLAT BOOK 2, PAGE 12 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF MUSEUM CIRCLE (A 74.36 FOOT RIGHT OF WAY, AS NOW ESTABLISHED) WITH THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 13 (ACOSTA BRIDGE CONNECTOR, A VARIABLE WIDTH RIGHT OF WAY PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, SECTION 72160-2528); THENCE SOUTH 89°52'43" EAST, ALONG SAID NORTHERLY RIGHT OF WAY LINE OF MUSEUM CIRCLE, 346.92 FEET; THENCE NORTH 03°08'29" EAST, 173.71 FEET; THENCE NORTH 89°52'43" WEST, 15.21 FEET TO THE ARC OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 61.00 FEET, AN ARC DISTANCE OF 113.63 FEET, SAID ARC BEING SUBSTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 00°32'51" WEST, 97.90 FEET; THENCE NORTH 19°21'02" WEST, 52.73 FEET; THENCE NORTH 30°39'02" EAST, 79.02 FEET TO THE POINT OF BEGINNING; THENCE NORTH 25°28'51" WEST, 224.16 FEET TO THE NORTHERLY FACE OF AN EXISTING CONCRETE BULKHEAD AT THE ST. JOHNS RIVER; THENCE NORTH 64°30'56" EAST, ALONG LAST SAID LINE, 76.71 FEET; THENCE NORTH 85°28'16" EAST, CONTINUING ALONG LAST SAID LINE, 36.41 FEET; THENCE SOUTH 25°29'04" EAST, 23.16 FEET; THENCE SOUTH 64°30'58" WEST, 23.96 FEET; THENCE SOUTH 00°00'00" EAST, 118.86 FEET; THENCE NORTH 90°00'00" EAST, 31.10 FEET; THENCE SOUTH 00°00'00" EAST, 40.00 FEET; THENCE SOUTH 30°39'02" WEST, 55.98 FEET TO THE POINT OF BEGINNING.

CONTAINING 13,728 SQUARE FEET, MORE OR LESS.



**Less and except** any portion thereof included in the Project Parcel for use as the Restaurant Parcel. In general, the Restaurant Parcel is the southern tip of the above-described property.

Note: The parties agree that a surveyed legal description shall be substituted as Exhibit A prior to easement execution.



EXHIBIT B to Temporary Demolition Easement

Grantee Insurance Requirements

Without limiting its liability under this Easement Agreement, Grantee shall at all times during the term of this Easement Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Easement Agreement (and Grantee shall require its, contractor, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

**Insurance Coverages**

Schedule	Limits
<b>Worker’s Compensation Employer’s Liability</b>	Florida Statutory Coverage \$ 1,000,000 Each Accident \$ 1,000,000 Disease Policy Limit \$ 1,000,000 Each Employee/Disease

This insurance shall cover the Grantee (and, to the extent they are not otherwise insured, its contractors and subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers’ Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers’ Compensation Act, where appropriate, coverage is to be included for the Federal Employers’ Liability Act, USL&H and Jones, and any other applicable federal or state law.

<b>Commercial General Liability</b>	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/ Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

The policy shall be endorsed to provide a separate aggregate limit of liability applicable to the Work via a form no more restrictive than the most recent version of ISO Form CG 2503

Grantee will require Contractor to continue to maintain products/completed operations coverage for a period of three (3) years after the final completion of the project. The amount of products/completed operations coverage maintained during the three year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by Contractor in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the Work.

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City’s Office of Insurance and Risk Management.

**Automobile Liability** \$1,000,000 Combined Single Limit  
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Easement Agreement)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

**Design Professional Liability** \$1,000,000 per Claim  
\$2,000,000 Aggregate

Any entity hired to perform professional services as a part of this Easement Agreement shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Easement Agreement and with a three year reporting option beyond the annual expiration date of the policy.

**Builders Risk/Installation Floater** %100 Completed Value of the Project

Grantee will purchase or cause the General Contractor to purchase Builders Risk/Installation Floater coverage. Such insurance shall be on a form acceptable to the City's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$100,000 deductible for other than water damage, flood, windstorm and hail. For flood, windstorm and hail coverage, the maximum deductible applicable shall be 5% of the completed value of the project. For Water Damage, the maximum deductible applicable shall not exceed \$500,000. Named insured's shall be: Grantee, Contractor, the City, and their respective members, officials, officers, employees and agents, and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

**Pollution Liability** \$2,000,000 per Loss  
\$2,000,000 Annual Aggregate

Any entity hired to perform services as part of this Easement Agreement for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

**Pollution Legal Liability** \$2,000,000 per Loss  
\$2,000,000 Aggregate

Any entity hired to perform services as a part of this Easement Agreement that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury

and property damage for losses that arise from the facility that is accepting the waste under this Easement Agreement.

**Umbrella Liability**

\$1,000,000 Each Occurrence/ Aggregate.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above and shall be included in the Umbrella policy

In the event that any part of the work to be performed hereunder shall require the Contractor or its Subcontractors to enter, cross or work upon or beneath the property, tracks, or right-of-way of a railroad or railroads, the Contractor shall, before commencing any such work, and at its expense, procure and carry liability or protective insurance coverage in such form and amounts as each railroad shall require.

The original of such policy shall be delivered to the railroad involved, with copies to the City, and their respective members, officials, officers, employee and agents, Engineer, and Program Management Firm(s) (when program management services are provided).

The Contractor shall not be permitted to enter upon or perform any work on the railroad's property until such insurance has been furnished to the satisfaction of the railroad. The insurance herein specified is in addition to any other insurance which may be required by the City, and shall be kept in effect at all times while work is being performed on or about the property, tracks, or right-of-way of the railroad.

**Additional Insurance Provisions**

- A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.
- C. Contractors', Subcontractors' and Vendors' insurance shall be primary to Grantees; and Grantee's Insurance shall be Primary with respect to Grantor's insurance or self-insurance. The insurance provided by the Grantee shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.
- D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Easement Agreement shall remain the sole and exclusive responsibility of the named insured Grantee. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Easement Agreement.
- E. Grantee's Insurance Additional Remedy. Compliance with the insurance requirements of this Easement Agreement shall not limit the liability of the Grantee or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers,

employees or agents shall be in addition to and not in lieu of any other remedy available under this Easement Agreement or otherwise.

- F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Grantee shall relieve Grantee of Grantee's full responsibility to provide insurance as required under this Easement Agreement.
- G. Certificates of Insurance. Grantee shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- I. Notice. The Grantee shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Grantee shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Grantee under this Easement Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Easement Agreement, Grantee shall present this Easement Agreement and Exhibit J to its Insurance Agent affirming: 1) that the Agent has personally reviewed the insurance requirements of the Easement Agreement, and (2) that the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Grantee.

# EXHIBIT D

## EXHIBIT D

### MOSH Property

That certain real property located generally at 1025 Museum Circle, Jacksonville, Florida 32207, being a portion of R.E. number 080269 0000 as further detailed below.

#### EXHIBIT "A" TO THE SIXTH AMENDMENT TO LEASE

#### LEGAL DESCRIPTION OF THE EXISTING STRUCTURES OF THE JACKSONVILLE MUSEUM OF ARTS AND SCIENCE

A part of Block 4, F.F. L'ENGLE'S SUBDIVISION of South Jacksonville Plat Book 2, page 12, current public records of Duval County, Florida, more particularly described as follows:

Commence at the intersection of the Westerly right of way line of Duran Avenue (as established for a 50 foot right of way) with the northerly right of way line of Gulf Life Drive (formerly June Street) as established for a width of 85 feet; thence easterly along said northerly right of way line of Gulf Life Drive, a distance of 499.14 feet; thence northerly at right angles to said northerly right of way line a distance of 23 feet to a point; thence easterly at right angles to the last described line and parallel to the northerly right of way line of Gulf Life Drive, a distance of 112 feet to the point of beginning; thence northerly at right angles to the last described line, a distance of 35.5 feet; thence northwesterly at an angle of 135 degrees in a clockwise direction from the last described line, a distance of 14 feet; thence northeasterly, at right angles to the last described line, a distance of 34 feet; thence southeasterly, at right angles to the last described line 8.3 feet; thence easterly, at an angle of 135 degrees in a clockwise direction from the last described line, a distance of 18 feet; thence northeasterly, at an angle of 135 degrees in a clockwise direction from the last described line a distance of 18 feet; thence northerly, at an angle of 135 degrees in a clockwise direction from the last described line, a distance of 18 feet; thence northwesterly, at an angle of 135 degrees in a clockwise direction from the last described line, a distance of 18 feet; thence northerly at an angle of 225 degrees in a clockwise direction from the last described line a distance of 70 feet; thence westerly at right angles to the last described line, a distance of 150 feet; thence southerly at right angles to the last described line a distance of 177 feet; thence easterly at right angles to the last described line and parallel to the northerly right of way line of Gulf Life Drive, a distance of 112 feet to the Point of Beginning.

The above legal descriptions are based on the legal description that is a part of the lease dated 31 October 1967 between the City of Jacksonville and the Jacksonville Children's Museum, Inc. and the subsequent amendments to the Lease dated 14 May 1968, 30 September 1977, 28 April 1981 and 8 August 1983.

See Harbor Engineering Company's Drawing No. 2544-DE, Revised July 22 1986 for sketch of above.

# EXHIBIT E

## EXHIBIT E

### Location of Parking Garage Improvements

The to be constructed structured parking facility containing no less than five hundred (500) spaces shall be located on that portion of the Project Parcel generally as depicted below. In no event shall any portion of the parking garage exterior face the river, the park, Museum Circle or MOSH, or Riverplace Boulevard and be wrapped on three sides by residential or retail uses. Access to the garage parking shall be via Museum Circle. Loading and trash pickup shall be via an access easement adjacent to the boat ramp.





# EXHIBIT F



# EXHIBIT G

**EXHIBIT G**

Riverwalk Design Criteria

**2019-196**  
**ON FILE DOCUMENTS**

(a)	Riverwalk Park Design Criteria	<b>PAGE 2</b>
(b)	Riverwalk Planting Palette and Thread Plant List	<b>PAGE 13</b>
(c)	Jacksonville Riverwalk Wayfinding	<b>PAGE 15</b>
(d)	Subpart H (Downtown Overlay Zone and Downtown District Regulations), Part 3 (Schedule of District Regulations), Chapter 656 (Zoning Code), Ordinance Code, which is repealed, in its entirety, by Ordinance 2019-196	<b>PAGE 24</b>

## **RIVERWALK PARK DESIGN CRITERIA: FEBRUARY, 2019**

### **GOALS OF THE RIVERWALK**

- Create a safe, pedestrian friendly recreational trail that connects people and places along the St. John's River.
- Provide public access to the riverfront.
- Unite the Northbank and Southbank Riverwalks through common, subtle complementary design features that develop, emphasize and enhance existing infrastructure rather than requiring additional, extensive infrastructure investment.
- Allow the Northbank and Southbank Riverwalks to retain their own identity for wayfinding purposes. The Northbank connects the sports district, restaurants, shops, offices, businesses and the Downtown, Brooklyn and Riverside neighborhoods. Earthy brown and red colors, straight lines, angular and square patterns dominate the design style of the Northbank. The Southbank Riverwalk provides connection among many medical facilities, restaurants, shops, offices, businesses and the San Marco neighborhood. Bright colors and curvilinear lines enhance a nautical themed design style that defines the Southbank.
- Create lasting, memorable experiences throughout the Riverwalk with hubs, nodes and nodettes that provide immersive and interactive landscapes describing unique features of Jacksonville and the St. John's River.
- Create a vibrant, interactive waterfront experience that improves access to parks, hotels, museums, restaurants and shops.
- Provide connection across the St. John's River through increased pedestrian bridge access, water taxi, and enhanced sight lines.
- Provide critical pedestrian and biking safety downtown. Pedestrians and cyclist can travel safely on the Riverwalk from downtown Jacksonville to the Riverside neighborhood, for example, without intersections, traffic signals and automobiles.
- Create a timeless Riverwalk framework establishing connectivity with the understanding that styles, product availability and development will change.
- Increase hospitable features of our Riverwalk including shade, seating, access to food, water and sanitation facilities.
- Create a resilient Riverwalk that can withstand hurricane, high wind and flood conditions.
- Connect Jacksonville's increasingly diverse and vibrant cultural, economic and recreational hubs.
- Serve as a part of the larger multi-use and greenway trail plans for Jacksonville therefore connecting more people and more neighborhoods to the St. John's River.

### **INFRASTRUCTURE STANDARDS**

The City of Jacksonville is bisected by the St. John's River, and the Riverwalk is adjacent to the river. The Riverwalk varies in its spatial relationship to the river: it is partly built over the water, atop a bulkhead or separated from the waterfront with a reinforced rip-rap bank. Because the St. John's River is tidal and prone to storm surges the stream banks, waterfront parks and walkways have been flooded and stressed. After each storm, washed out walkways, landscaping, infrastructure and fountains are rebuilt. Compromised bulkheads are reinforced.

In order to create a buffer for river flooding, reduce infrastructure damage and reduce resulting recovery and maintenance cost, create more pedestrian friendly landscapes, future Riverwalk developments shall be set back from the water's edge to allow for a natural, planted reinforced shoreline where appropriate based on wave impact, tidal conditions, velocity, soil composition, etc. Planted reinforced shorelines shall be reviewed and approved on a case by case basis by the City Engineer. This should be done in areas where there aren't existing bulkheads or planned shoreline changes in a development agreement. A living shoreline or hybrid stream edge treatment will allow floodwater to slowly recede over rocks and planted landscape to preserve Riverwalk infrastructure and create a naturally shaded, visually appealing walkway. In locations where a living shoreline will not provide superior upland protection for the Riverwalk, a bulkhead will be required. A hybrid living shoreline should be created in conjunction with bulkheads in areas with no boat dockage and under the review of the City Engineer.

The path width shall conform to current FDOT standards for a shared use path; however FDOT minimum turning radius and grading standards will not be used for the Riverwalk, as the Riverwalk is anticipated to be a more urban, specialized use path. The current FDOT standard of minimum 15' wide with a minimum vertical clearance of 12' high shall be maintained throughout the length of the walkway except in short intervals where width is constrained and in no event shall any constrained location be narrower than 12' in width. Trees, shade structures, lighting, signage and furnishings shall all be placed outside the 15' minimum Riverwalk width or if within the Riverwalk out of necessity due to constraints such as over water location, then shall not reduce the effective width to less than 12' with minimum vertical clearance. The Riverwalk path design shall provide for use by pedestrians and bicyclists of various abilities and be designed for many users entering and exiting the walkway at various, irregular intervals. All path design requirements shall comply with ADA standards. Every effort will be made to provide ADA compliancy as the first design option. For example, ramps will create the primary entrance and exit points along the Riverwalk. Ramps will be fully integrated into the first design option and will not be merely a secondary design feature.

## **LIGHTING**

Appropriate lighting is crucial to creating a unique and safe visitor experience. Lighting design will reinforce and define activity areas and provide interest at night. Lighting will facilitate safe and convenient circulation for pedestrians and bicyclists. Overspill of light and light pollution will be avoided. Minimizing the visual impacts of lighting in related or adjacent parking areas is critical to maintaining the Riverwalk atmosphere and experience.

The Riverwalk shall have an average ambient light level of between one (1) and three (3) footcandles with a minimum of half (0.5) and a maximum of six (6) footcandles at any point as measured on the ground plane. Accent lighting or recreational lighting may exceed these standards by a multiple of 2.5.

The position of the lamp in a pedestrian way light should not exceed 16' from the ground plane. Lighting shall focus on lighting the pathways and pedestrians. Light fixtures shall be installed on the side opposite of the river whenever possible to ensure ease of maintenance and reduced flooding risk. Light fixtures shall have tops to enhance the nighttime sky and prevent glare into adjacent properties. The color of light has also been shown to help people accurately identify colors at night and be more conducive to human health and wildlife. Warm colors, with color temperatures of no more than 3000 Kelvins should be used instead of cool blue light. LED lights with these standards shall be used to increase electrical efficiency. Accent or up lights of

fountains, art, structures and plant material are encouraged to increase visual interest on specimen trees or sculptural design elements. Accent or up lights need to be used in conjunction with the overall lighting plan so the effectiveness of the specialized lighting is pronounced.

### **SERVICE AREAS**

Service areas, constructed stormwater infrastructure, electrical and mechanical equipment shall be visually unobtrusive and should be integrated with the site and adjacent buildings. Landscape screening shall be used as feasible; however use of landscape screening shall be incorporated into the area without creating dead spaces around infrastructure. Light lockers or housing that encloses transformers or back flow valves shall be decorative in nature.

### **SIGNAGE**

Signage shall be provided to assist wayfinding to the Riverwalk, parking and along the Riverwalk. A signage package, outlining color choices, dimensions and materials is located in Appendix A. All signage shall incorporate the Jacksonville Riverwalk logo. Directional signage is located along the roadway, one block away from public access points, and outside of Jacksonville Skyway Monorail Stations. Directional signs direct people to the Riverwalk from sidewalks and streets. Parking is noted on directional signs if parking is adjacent or across the street from a directional sign.

Signage along the Riverwalk includes directory/directional signs and directional signs. The directory/directional signs are located at public access points. The directory map signs are designed to be electronic in the future, however, until such time, the map shall be updated if any of the key locations as outlined in the legend change or as the Riverwalk expands. Directional signage above the directory sign identify features along the Riverwalk or easily accessible from the Riverwalk. Points of interest outside the Riverwalk are listed with the number of blocks from the Riverwalk. Points of interest that are not directly accessible are not listed on directional signage. Directional signs are placed at public access points where a directory sign is clearly visible. River taxi signs are also noted along the Riverwalk.

All signage and locations shall be approved by the Parks Director. No commemorative markers or storyboards shall be located on the Riverwalk without the express approval of the Parks Director and shall conform to or compliment the color palette and materials adopted in Appendix A. Sign locations shall be field verified to minimize interference with other signs, utilities and trees. Signs shall be mounted as described in Appendix A. No sign shall reduce the effective width of the Riverwalk to less than 12 feet.





## Logo

### **HARDSCAPE**

Segments of the Northbank and Southbank Riverwalks were constructed at different times and with varying materials. Each installation offers interesting experiences and designs. It is



important to keep key design elements of all segments as they increase the length and diversity of the public space. Planting patterns and key hardscape elements will tie the Riverwalks together, while they remain distinctly different.

The benches shall provide contrasting colors to the greens or blues of the Riverwalk, and be in the orange to red hues. (Pantone 1585C, 1797C, 5455U or equivalent). The design shall be approved by the Parks Director. The benches styles shall be placed on both sides of the Riverwalk in an effort to tie the design styles together and create a more playful design aesthetic.



Examples of potential, acceptable artistic benches.  
(Jeppe Hein "Bench of Expectations & Landscape Forms "Escofet Flor")

### ***NORTHBANK RIVERWALK***

The Northbank connects the sports district, restaurants, shops, offices, businesses and the Downtown, Brooklyn and Riverside neighborhoods. Earthy brown and red colors, straight lines, angular and square patterns dominate the paving design of the Northbank. The walkway changes from pavers to concrete at various locations, but all of the internal paving design includes some square design of paver accents in the brown color family. The fencing is primarily black or galvanized metal in straight lines with accents of squares with an "X" through them. This design style should be maintained, however the material and detail design choices shall be flexible. All designs shall be submitted to the Parks Director for written approval prior to submission to the Building Department.

Many of the pavers that are used throughout the current Northbank Riverwalk are no longer available and the design has been costly to maintain. New walkways should be constructed of concrete with pavers being used as accents in rectilinear patterns. These accents should occur where the two paths meet or where turns occur. Pavers shall be installed per tolerances and specifications outlined in the Interlocking Concrete Pavement Institute guidelines. Concrete portions of the walkway shall be reinforced concrete and be a minimum of 5" thick. Concrete shall comply with existing City of Jacksonville concrete specifications. Concrete shall have a salt finish. Any colored concrete shall be colored throughout the concrete.

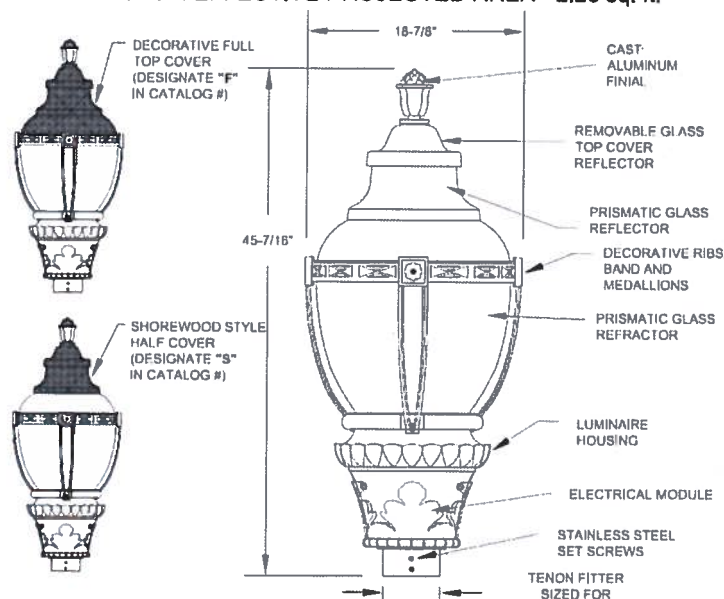
Railings that are used along Northbank Riverwalk shall be either powder coated black or hot dipped galvanized steel. Railing shall be upright and accent patterns shall be rectilinear in nature. Railings shall be as unobtrusive as possible so the waterfront is more dominant than the railing. Railings should only be used in areas where it is necessary according to safety code.



Examples of potential, acceptable Northbank Riverwalk railing.

Light standards shall be historic in character and powder coated black. Current lights should be matched in quality and style. Existing lights are similar to the State Street, Acorn Style Luminaire with full decorative cover. The primary lighting along Northbank Riverwalk will be from light standards. Bollard path lights may compliment the light standards, with style complimenting the light standards.

**STATE STREET LUMINAIRE**  
 ACORN STYLE WITH FINIAL, BAND, MEDALLIONS  
 AND DECORATIVE RIBS  
 MAXIMUM WEIGHT - 80 lbs.  
 MAXIMUM EFFECTIVE PROJECTED AREA - 2.26 sq. ft.



Examples of acceptable Northbank Riverwalk lighting.

Benches along Northbank Riverwalk shall be historic in character and all steel. Existing wood benches will be phased out. Acceptable benches shall be black or green FMS-324 bench from Victor Stanley. Where appropriate, the backless bench model could be used or approved equal. Trash cans shall also be all steel and open from the top. Acceptable trashcans shall be the ES-42 Victor Stanley or Lexington 36 gallon with rain bonnet lid, or approved equal. Bike racks shall be black or green Victor Stanley BRHS-101 or approved equal. Drinking fountains shall be Canterbury Designs, New York Fountain or approved equal. All site furnishings shall be attached with stainless steel, tamper proof hardware.



Examples of acceptable Northbank Riverwalk site furnishings.

***SOUTHBANK RIVERWALK***

The Southbank Riverwalk provides connection among many medical facilities, restaurants, shops, offices, businesses and the San Marco neighborhood. Bright colors and curvilinear lines enhance a nautical themed design style that defines the Southbank. The current Southbank Riverwalk is constructed over the water. As the Southbank Riverwalk is built out, the walkway design should shift to areas on land, and concrete should be used with paver details. Alternative shade sails should be used that allow for more head room. This design style should be maintained, however the material and detail design choices shall be flexible. All designs shall be submitted to the Parks Director for written approval prior to submission to the Building Department.

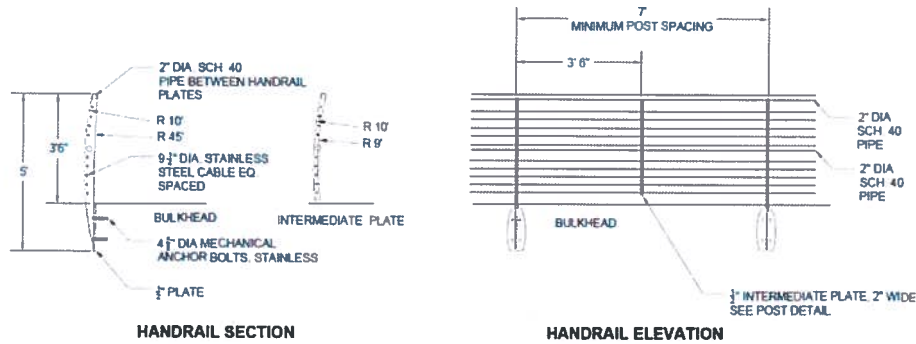
Many of the pavers that are used throughout the current Southbank Riverwalk are faded, custom colors and have been costly to maintain. New walkways should be constructed of concrete with pavers being used as accents in curvilinear patterns similar to the existing radii. These accents should occur on a regular basis along the walkway to add interest. Bands of a two tan pavers (Pantone 467C), in an offset stacked bond configuration, shall be used to differentiate between color changes. Pavers shall be installed per tolerances and specifications outlined in the Interlocking Concrete Pavement Institute guidelines. Concrete portions of the walkway shall be reinforced concrete and be a minimum of 5” thick. Concrete shall have a salt finish. Any colored concrete shall be colored throughout the concrete. Concrete and paver color palette shall consist of the following (or equivalent):

Pantone 174C	Pantone 7452C	Pantone 7416C
Pantone 1797C	Pantone 7499C	Pantone 3294C

Railings that are used along Southbank Riverwalk shall contain steel wire with galvanized posts and



a thicker top railing. If more walkways are built over the water, the railing shall be arced into the walkway to match the area between Friendship Fountain and Duval County School Board. Railings on walkways not over the water shall be upright. Railings shall be as unobtrusive as possible so the waterfront is more dominant than the railing. Railings should only be used in areas where it is necessary according to safety code.



Example of acceptable Southbank Riverwalk railing mounted to a bulkhead.



Existing Southbank Riverwalk railing and materials.

Light standards for general path lighting shall be a similar style to the existing Southbank Riverwalk lights. These are the Architectural Area Lighting, Universe Collection, medium or pedestrian scale. The fixtures are illuminated solid rings, straight hoods, black with a flat glass lens. The pole is a 12' pole with fluted decorative base and a SLA 17 arm.

Benches and trashcans can be sourced from DuMor and the steel black trash can is model 84-32-DM and the bench is the DuMor Steel Bench 95 in a 10' length. The drinking fountain is Murdock #M43-2-PF. Acceptable alternatives can be approved by the Parks Director. All site furnishings shall be attached with stainless steel, tamper proof hardware. Direct connections of the hardware

into brick should be avoided.



Examples of acceptable Southbank Riverwalk site furnishings.

## **LANDSCAPE**

### **GENERAL**

Landscape design, installation, and maintenance shall comply with RPDC and with Part 12, Chapter 656, City of Jacksonville Ordinance Code, Tree Preservation and Landscape Standards; should there be a conflict between Chapter 656, Landscape Design Standards and RPDC, the more stringent requirement shall prevail. Proposed landscape design by the Property Owner within the easement may be considered in satisfying applicable portions of the requirements of the Landscape Ordinance; existing landscape within the easement may be considered with new development work using Chapter 656 "Credit for existing trees and understory." Screening of parking lots and drives shall be in compliance with Chapter 656, Landscape Design Standards.

### **QUALITY CONTROL**

Landscape Work shall be installed based on approved landscape documents prepared by a State of Florida registered Landscape Architect. Approval shall be completed in the 10 set review process and concurrence with City of Jacksonville, Parks Recreation and Community Services, Office of Director. Installation of landscaping shall be in accordance with Chapter 656 "Landscape Design Standards." See Chapter 656, "Invasive Species" for prohibited material. Site inspections shall be conducted by a landscape architect during the installation and at completion. Maintenance inspections for all formal landscape areas shall be completed by a landscape architect on a monthly basis. A maintenance report with accompanying photographs and map shall be generated to ensure issues are addressed properly.

### **PLANTING ZONES**

Planting designs shall be established by planting zones. The areas closest to the river will have a less manicured appearance and will be able to withstand tidal changes and flooding. Areas closer to the Riverwalk shall be more formal in design and node planting design shall be highly designed and maintained. Plants appropriate for each area are outlined in the planting lists, Appendix B.

### ***FLOATING WETLAND MATS (SOUTHBANK, 2016)***

Floating wetland mats shall be installed in small water areas that are located between the bulkhead and the Southbank Riverwalk. The mats are constructed of framework that supports

planting media to grow grasses/rushes and will offer changing floristic interest. The mats will need to be replanted yearly as the plant material will become too large for the mat structure.

### ***RIVERSHORE (SLOPED AREAS ADJACENT TO THE RIVER)***

Rivershore areas are areas with slopes adjacent to the river. These areas often contain rip-rap and have slopes that near 4:1. The purpose of planting in these areas is to create floristic diversity and stabilize the banks. No areas along the Riverwalk shall have slopes that exceed 4:1.

### ***RIVERWALK***

The main Riverwalk walkway shall have consistent plantings that are formal in nature and tie into the adjacent plantings. In order to do this, key or thread plants shall be used. These plants will be used to provide 60% of the plant materials along the walkway. These plants are noted in the plant list.

### ***ADJACENT TO CORPORATE CAMPUS***

These are existing areas adjacent to corporate campuses. The companies have tied the Riverwalk planting and maintenance into their corporate landscapes. There shall be no change in these planting designs for the areas that are already maintained.

### ***POPS/ACCENTS***

These areas will incorporate more formal planting designs and may include planters and hanging baskets. Use of native plants is encouraged in these areas. These will provide smaller pops of color or interest, but not be as large as the nodes in scale.

### ***NODES/HUBS***

Node shall be designed in accordance with the theme of the node and only required to plant 20% of the plants in the planting list. Use of native plants is encouraged in these areas. The node design shall incorporate the key/thread planting material to maintain consistency along the Riverwalk.

## **DESIGN PRINCIPLES**

### ***DESIGN FRAMEWORK***

In formal planting areas, mass plantings should be used to increase the readability of the landscape. Textures should be considered when pairing plants. Plants that are seasonally dormant should be paired with plants that offer interest during the dormant season.

In areas of natural plantings, foreground plantings shall create a formal edge. The foreground plantings shall be limited in species and size/height. These plants are noted in the plant list.

Under plantings in shady areas should focus on varying colors of green and texture. Plantings in sunny areas shall also utilize texture changes, however blooming plants that continue throughout the seasons are strongly encouraged.

Planting areas shall be lined with small fencing to protect plantings and further reinforce planting zones. This fencing should be 2-3' tall, sized according to the associated planting and location along the Riverwalk. The intent of the fencing is to create another visual cue to visitors that the plantings



Example of fencing in a planting zone.

are not be walked through.

Walls and hedges utilized to screen visibility of unsightly areas such as service yards require a six (6) foot wide (minimum) landscaped bed of smaller shrubs and groundcovers. However, the berm or hedge may not to be constructed where it interferes with vision or safety.

All areas of the Riverwalk landscaping shall be designed in accordance with Crime Prevention through Environmental Design Guidelines (CPTED).

### **STORMWATER TREATMENT**

Wherever feasible, best management practices shall be incorporated in the Riverwalk. No hardscape structures shall be used to directly channel flow into the river; all stormwater shall sheet flow through formally planted filter strips into the landscape. Planting shall be integrated with water quality treatment areas and selected based on their

ability to tolerate standing water time after storm events.

Where above ground stormwater management facilities are required, such facilities shall contain multi-purpose amenities. For example, a bioswale could be used to screen other infrastructure or a dry retention basin can be used for active recreation.

### **EROSION CONTROL**

Along the waterfront, where bulkheads are not present a minimum of a 3:1 slope shall be maintained. Any areas that contain rip-rap, the rip rap shall be a consistent size, no smaller than 1-1.5ft. and weighing between 150-500 pounds, unless a hydrologist deems smaller material is able to maintain the slope. Rip rap shall meet all St. John's River Water Management District standards and the outermost layer shall be comprised of gray granite or similar material that provides a uniform appearance. The sloped and rip rap slopes shall be planted with soil, as feasible so root systems are able to help maintain the slope. Appropriate plant materials are identified in the planting list. Grasses, perennial and forbes (native perennial) species shall be planted no more than 2' OC.

### **SHADE**

Shade trees shall be used to ensure a canopied Riverwalk. Seventy percent of the Riverwalk shall be shaded either by trees or shade structures. Shade shall be measured by the canopy size as outlined in the Jacksonville Tree Commission's Approved Tree Planting List ("Tree Planting List"), or by the shadow cast by a shade sail at noon. Shade trees or large trees as identified by the Tree Planting List shall be used in areas with areas large enough for planting. The planting area requirements for a large tree shall be a minimum of 15' x 15; however, if less space is available a structural soil, custom support system, or suspended pavements shall be used to accommodate the root system. Only small and medium trees as identified by the Tree Planting List shall be specified in planters. Planting of groundcovers should be considered under trees as feasible. Shade structures shall be placed in areas that cannot support tree plantings. Shade structures shall be designed for easy removal if fabric is used and affordable replacement. Shades shall be at a height to minimize vandalism and conform to the minimum vertical clearance height of 12'. All shade structures shall be approved by Parks



Director.

### **IRRIGATION**

All irrigation shall be designed to be consistent with water efficient landscaping design standards in accordance with Chapter 656; informal/natural theme to include areas of re-established native plant communities with temporary irrigation system.

If feasible, irrigation systems shall use reclaimed water.

Temporary irrigation systems shall be abandoned after plantings are established in Rivershore Planting Zones. Irrigation systems in nodes, nodettes and Riverwalk shall be maintained in fully functional condition at all time. If planters or baskets are used, they shall be watered with a water truck.

Equipment and design shall be as vandal resistant as possible.

### **PLANT LIST**

For the purpose of continuity and compatibility, the attached plant list is provided. Continuity from development to development is gained along the riverfront where RPDC has provided for certain requirements such as plant materials; design compatibility is gained by repetition in detailing and design elements, such as landscape features and textures.



# Riverwalk Park Plant Palette

Botanical Name	Common Name	Native?	Size Mature Height	Bloom Color	Light	Drought Tolerance	Salt Tolerance	Wildlife Attracter	Planter (No less than 10'x10')	Zone	Plantings Category	Comments
<b>Large/Shade Trees</b>												
<i>Acer rubrum</i>	Red Maple	Y	80' ht.	Yellow/Green	Sun, Partial Sun	Well to Wet	Low	Yes	No	RW, Corp. Pop. N	Yes	Low salt tolerance, but flood tolerant
<i>Betula nigra</i>	River Birch	Y	50' ht.	Yellow	Sun, Partial Sun	Well to Wet	Low	Yes	Yes	RW, Corp. Pop. N	Yes	Low salt tolerance, but flood tolerant
<i>Ilex cassine and cvs</i>	Daboon Holly	Y	30' ht.	White	All	Medium to Wet	Medium	No	No	WTLD, RS	Rivershore	High wind, base maintenance trimming on yearly basis
<i>Juniperus virginiana</i>	Red Cedar	Y	50' ht.	Green	Sun, Partial Sun	Well	High	Yes	No	RW, Corp. Pop. N	Formal	
<i>Magnolia grandiflora</i>	Southern Magnolia	Y	80' ht.	White	Sun, Partial Sun	Well to Medium	High	Yes	No	RS, RW, Corp. Pop. N	All	
<i>Nyssa sylvatica</i>	Red Bay	Y	75' ht.	Yellow	Sun, Partial Sun	Well to Wet	Medium	Yes	No	RS	Rivershore	
<i>Persea borbonia</i>	Sycamore	Y	50' ht.	Yellow	Sun, Partial Sun	Well to Wet	High	Yes	No	WTLD, RS	Rivershore	Low to Medium wind
<i>Platanus occidentalis</i>	Shumard Oak	Y	60' ht.	Green	Sun, Partial Sun	Well to Medium	Medium	Yes	No	RS, RW, Corp. Pop. N	Rivershore	Seeds and leaves should be considered with maintenance
<i>Quercus shumardii</i>	Live Oak	Y	80' ht.	Yellow	Sun	Well	Medium	Yes	Yes	RW, Corp. Pop. N	Formal	Tolerates occasionally wet soil, Medium to High Wind
<i>Quercus virginiana</i>	Yellow Trumpet Tree	Y	35' ht.	Yellow	Sun	Well	Medium	Yes	No	RW, Corp. Pop. N	Formal	Low Wind
<i>Taxodium chinensis</i>	Cedar Elm	Y	70' ht.	Green	Sun, Partial Sun	Well to Wet	Medium	No	No	RW, Corp. Pop. N	All	Susceptible to disease and pests
<i>Ulmus crassifolia</i>	Chinese Elm	N	50' ht.	Green	Sun, Partial Sun	Well to Medium	Medium	No	Yes	RW, Corp. Pop. N	Formal	Susceptible to pests and freezing in FL, tolerates occasionally wet soil
<b>Small/Specter Trees</b>												
<i>Chionodoxa virginicus</i>	Fringe tree	Y	20' ht.	White	Sun, Partial Sun	Well	Medium	Yes	Yes	RW, Corp. Pop. N	All	Spring bloom, slow growing, regular watering, Chinese variety also acceptable
<i>Cercis canadensis</i>	Red Bud	Y	30' ht.	Pink/Purple	Sun, Partial Sun	Well	Medium	Yes	Yes	RW, Corp. Pop. N	Formal	
<i>Cordia boissieri</i>	White Geiger	N	20' ht.	White	Sun, Partial Sun	Well	Medium	No	Yes	RW, Corp. Pop. N	Formal	
<i>Ilex vomitoria and cvs.</i>	Yaupon Holly	Y	30' ht.	Red	Sun, Partial Sun	Well to Wet	High	Yes	Yes	RW, Corp. Pop. N	Formal	
<i>Ostrya virginiana</i>	Hophornbeam	Y	40' ht.	Green	Sun, Partial Sun	Well	Medium	Yes	Yes	RW, Corp. Pop. N	Formal	Beautiful seedpods
<i>Prunus umbellata</i>	Flawed Plum	Y	20' ht.	White	Sun, Partial Sun	Well	Medium	Yes	Yes	RW, Corp. Pop. N	All	produces plums, plant where plum can drop without maintenance
<i>Quercus myrtifolia</i>	Myrtle Oak	Y	40' ht.	Green	Sun, Partial Sun	Well to Medium	High	Yes	Yes	RW, Corp. Pop. N	All	Shorter oak, must be staked into tree form
<i>Sabal palmetto</i>	Sabal Palm/Cabbage Palm	Y	65' ht.	Green	Sun, Partial Sun	Well to Wet	High	Yes	Yes	RS, RW, Corp. Pop. N	All	Free seeding is a problem
<i>Itaiea's Tiburum</i> * <i>Fritillachoochee</i> *	Walter's Viburnum	Y	25' ht.	White	All	Well to Medium	High	Yes	Yes	RS, RW, Corp. Pop. N	All	Tolerates occasionally wet soil, beautiful spring blooms
<b>Shrubs</b>												
<i>Clethra alnifolia</i>	Sweet Pepperbush	Y	8' ht.	White	All	Well to Wet	Medium	Yes	No	RS	Rivershore	
<i>Hepatica arborea</i>	Schierberg	N	15' ht.	White	Sun, Partial Sun	Well to Medium	Medium	No	No	RW, Corp. Pop. N	Formal	Susceptible to scale
<i>Ilex glabra</i>	Galberry	Y	8' ht.	White	Partial Sun	Wet	Medium	No	No	RS	Rivershore	
<i>Monstera deltoidea</i>	Split Leaf Philodendron	N	6' ht.	White	All	Well	Medium	No	No	RW, Corp. Pop. N	Formal	
<i>Podocarpus macrophyllus</i>	Podocarpus	N	20' ht.	Purple	Sun, Partial Sun	Well	High	No	Yes	RW, Corp. Pop. N	Formal	Susceptible to pest and diseases; high wind
<i>Russelia equisetiformis</i>	Finecracker Plant	Y	5' ht.	Scarlet	Sun	Well	Medium	Yes	Yes	RW, Corp. Pop. N	Formal	Susceptible to pest
<i>Sabal minor</i>	Dwarf Palmetto	Y	9' ht.	Scarlet	All	Well to Medium	Medium	Yes	Yes	RS, RW, Corp. Pop. N	All	
<i>Zamia floridana</i>	Goatbe	Y	5' ht.	White	All	Well	High	Yes	Yes	RW, Corp. Pop. N	Formal	
<b>Vines</b>												
<i>Bignonia capreolata</i>	Trumpet Vine	Y	30' ht.	Orange/Red	All	Well to Medium	Medium	Yes	No	RW, Corp. Pop. Node	Formal	Tolerates brief flooding
<i>Hedera canariensis</i>	Algerian Ivy	N	1' ht.	Orange/Red	Shade	Well	Medium	No	Yes	RW, Corp. Pop. N	Formal	
<i>Lonicera sempervirens</i>	Coral Honeysuckle	Y	15' ht.	Orange/Red	Full Sun	Medium	Low	Yes	Yes	RS, RW, Corp. Pop. N	All	
<b>Groundcovers</b>												
<i>Asparagus setifolius 'Myers'</i>	Footfall Fern	N	2' ht.	Purple	Partial Sun, Shade	Medium	Medium	No	Yes	RW, Corp. Pop. N	Formal	evergreen
<i>Liriope muscari and cvs.</i>	Liriope	N	2' ht.	Pink	All	Well	Medium	No	Yes	RW, Corp. Pop. N	Formal	
<i>Mimosa strigilosa</i>	Sunshine Mimosa	Y	3-4' ht.	White	Sun	Well	Medium	Yes	Yes	RS, RW, Corp. Pop. N	All	
<i>Ophiopogon japonicus and cvs.</i>	Mondo Grass	N	1' ht.	White	Partial Sun, Shade	Well	Medium	No	Yes	RW, Corp. Pop. N	Formal	
<i>Osmunda regalis</i>	Royal Fern	Y	2' ht.	Brown	Partial Sun, Shade	Medium	Medium	Yes	Yes	RS, RW, Corp. Pop. N	All	
<i>Trachelospermum asiaticum</i>	Small-Leaf Jasmine	N	3' ht.	White	Sun, Partial Sun	Well to Medium	Medium	No	Yes	RW, Corp. Pop. N	Formal	
<b>Grasses</b>												
<i>Andropogon spp.</i>	Bluestem Grass	Y	10' ht.	Silver/Pink	Sun	Well to Medium	High	No	No	RS	Rivershore	Erosion control
<i>Dactyloctenium aegyptium</i>	Salt Grass	Y	2' ht.	Yellow	Sun	Wet	High	No	Yes	RS	Rivershore	
<i>Muhlenbergia capillaris</i>	Muhly Grass	Y	3' ht.	Purple/Pink	Sun, Partial Sun	Well to Medium	High	Yes	No	RW, Corp. Pop. N	Formal	Cut to ground in the spring to encourage bloom
<i>Panicum virgatum and cvs.</i>	Panic Grass	Y	5' ht.	Tan	Sun, Partial Sun	Well	High	Yes	No	RS	Rivershore	
<i>Paspalum quadrifarium</i>	Crown Grass	N	4' ht.	Tan	Sun	Well	High	No	No	RS, RW, Corp. Pop. N	All	

# Riverwalk Park Plant Palette

Botanical Name	Common Name	Native?	Size Mature Height	Bloom Color	Light	Drought Tolerance	Salt Tolerance	Wildlife Attractor	Planter (No less than 10"x10")	Zone	Plantings Category	Erosion control	Comments
<i>Spartina</i> spp.	Cordgrass	Y	4' ht.	Tan	Sun	Well to Wet	High	No	No	RS	Rivershore		
<i>Tripsacum dactyloides</i>	Fakelbush	Y	6' ht.	Green	Sun, Partial Sun	Well to Medium	Medium	Yes	Yes	RS, RW, Corp, Pop, N	All		Cut back to ground after frost kills the foliage, also available in dwarf variety
<i>Tripsacum floridana</i>	Florida Gama Grass	Y	4' ht.	Yellow	Partial Sun, Shade	Well to Wet	Medium	No	No	RS	Rivershore		
<b>Perennials</b>													
<i>Agapanthus africanus</i>	Lily of the Nile	N	2' ht.	Purple	Sun, Partial Sun	Well	Medium	No	Yes	RW, Corp, Pop, N	Formal		
<i>Alpinia zerumbet</i>	Shell Ginger	N	4' ht.	White	Partial Sun	Well to Medium	Medium	No	Yes	RW, Corp, Pop, N	Formal		
<i>Asclepias tuberosa</i>	Butterfly Milkweed	Y	2' ht.	Orange	All	Medium to Wet	Medium	Yes	Yes	RS, RW, Corp, Pop, N	All		
<i>Baptisia alba</i>	White Indigo	Y	2' ht.	White	Sun, Partial Sun	Well	Medium	No	Yes	RW, Corp, Pop, N	Formal		Baptisia australis, or Blue False Indigo is also appropriate
<i>Conocarpus aureolatus</i>	Conocarpus - Lobed Tulebeet	Y	3' ht.	Yellow	Sun, Partial Sun	Well to Medium	Medium	Yes	Yes	RS, RW, Corp, Pop, N	All		dermark in winter
<i>Equisetum Hyemale</i>	Horsetail Fern	Y	4' ht.	none	Sun, Partial Sun	Well	High	Yes	Yes	RW, Corp, Pop, N	Formal		only use in containers, highly invasive once established
<i>Eryngium yuccifolium</i>	Button Snakeroot	Y	3' ht.	White	All	Medium to Wet	Medium	Yes	Yes	RS, RW	All		Coastal flatplains
<i>Eurovys spp.</i>	Bush Daisy	N	6' ht.	Yellow	Sun, Partial Sun	Well to Medium	Medium	No	Yes	RW, Corp, Pop, N	Formal		
<i>Gaillardia pulchella</i>	Blanket Flower	Y	2' ht.	Yellow/Red	Sun	Well	Medium	Yes	Yes	RS, RW, Corp, Pop, N	All		
<i>Hamelia patens</i>	Firebush	Y	5' ht.	Red/Orange	Sun	Well	Medium	Yes	Yes	RS, RW, Corp, Pop, N	All		
<i>Hedychium spp.</i>	Butterfly Ginger	N	8' ht.	Yellow/Red	All	Well to Medium	High	No	Yes	RW, Corp, Pop, N	Formal		
<i>Helianthus angustifolius</i>	Swamp Sunflower	Y	4' ht.	Yellow	Sun	Well to Wet	Medium	Yes	No	RS, RW, Corp, Pop, N	All		
<i>Helianthus debilis</i>	Beach Sunflower	Y	4' ht.	Yellow	Sun	Well	High	Yes	Yes	RS, RW, Corp, Pop, N	All		
<i>Illicium floridanum</i>	Red Anise	Y	6' ht.	Red	Shade	Medium	Medium	Yes	Yes	RS, RW, Corp, Pop, N	All		Develops fungus if planted in wet areas, dune stabilization
<i>Iris Neomarica carolinica</i> sp	Giant Apostle Iris	N	5' ht.	Purple	Partial Sun	Medium	High	No	Yes	RS, RW, Corp, Pop, N	All		Dwarf and white flowering varieties available
<i>Iris virginica</i>	Southern Blue Flag	Y	2' ht.	White, Blue	Sun	Wet	Medium	Yes	No	RS	Rivershore		
<i>Liars spicata</i>	Blazin * Star	Y	5' ht.	Purple	Sun	Medium	Medium	Yes	Yes	RS, RW, Corp, Pop, N	All		Can get leggy; plant with grasses to support plant
<i>Penas lanceolata</i>	Peppas	N	4' ht.	Red	Sun, Partial Sun	Well	Medium	Yes	Yes	RW, Corp, Pop, N	Formal		Susceptible to freeze
<i>Solidago species</i>	Goldenrod	Y	6' ht.	Yellow	Sun, Partial Sun	Well to Wet	High	Yes	Yes	RS, RW, Corp, Pop, N	All		Other species of Solidago are good
<i>Sprekella formosissima</i>	Aztec Lily	N	2' ht.	Red	Sun, Partial Sun	Well	Medium	No	Yes	RW, Corp, Pop, N	Formal		also comes in variegated varieties
<i>Yucca filamentosa</i>	Adam's Needle/Beanygrass	Y	4' ht.	White	Sun, Partial Sun	Well	Medium	Yes	Yes	RW, Corp, Pop, N	Formal		needs to be planted in shaded areas
<i>Zingiber zerumbet</i>	Pine Cone Ginger	N	7' ht.	Red	Partial Sun	Well to Medium	Medium	No	Yes	RW, Corp, Pop, N	Formal		
<b>Aquatic Plants (Native/Non-Native)</b>													
<i>Cladium jamaicense</i>	Saw-Grass	Y	6' ht.		Sun, Partial Sun	Wet	Medium	Yes	No	WTLD	Rivershore		Can tolerate brackish water
<i>Juncus effusus</i>	Common Rush	Y	4' ht.	Gm/Bm	Sun	Wet	High	No	Yes	WTLD	Rivershore		
<i>Hibiscus coccineus</i>	Scarlet Hibiscus	Y	5' ht.	Red	Sun	Wet	High	Yes	Yes	WTLD	Rivershore		
<i>Lobelia cardinalis</i>	Cardinal Flower	Y	4' ht.	Red	Sun	Wet	Medium	Yes	Yes	WTLD	Rivershore		
<i>Pontederia cordata</i>	Pickerelweed	Y	3' ht.	Purple	Sun, Partial Sun	Wet	Medium	Yes	No	WTLD	Rivershore		Fully submerged plant
<i>Potamogeton pectinatus</i>	Saigo Pondweed	N	3' ht.		N/A	Wet	High	Yes	No	WTLD	Rivershore		Can tolerate brackish water
<i>Typha x glauca</i>	Hybrid Cattail	Y	9' ht.	White	Sun, Partial Sun	Wet	Medium	No	No	WTLD	Rivershore		
<i>Typha domingensis</i>	Southern Cattail	Y	9' ht.	Brown	Sun, Partial Sun	Wet	Medium	No	No	WTLD	Rivershore		
<i>Spartina</i> spp.	Cordgrass	Y	4' ht.	Tan	Sun	Well to Wet	High	No	No	RS	Rivershore		Erosion control
<i>Canna flaccida</i>	Canna	Y	4' ht.	Yellow	Sun	Wet	High	Yes	No	WTLD	Rivershore		color
<b>Zones Abbreviations</b>													
Wetland - WTLD													
Rivershore - RS													
Riverwalk - RW													
Corporate - Corp													
Pops - Pop													
Nodes - N													
<b>Planting Categories</b>													
Rivershore													
Formal													
<b>Thread Plants</b>													



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License No AAC001935

PROJECT NAME

JACKSONVILLE RIVERWALK  
WAYFINDING  
JACKSONVILLE, FL  
GRAPHICS & DECOR DESIGN  
CONTROL DOCUMENTS



ISSUE DATE

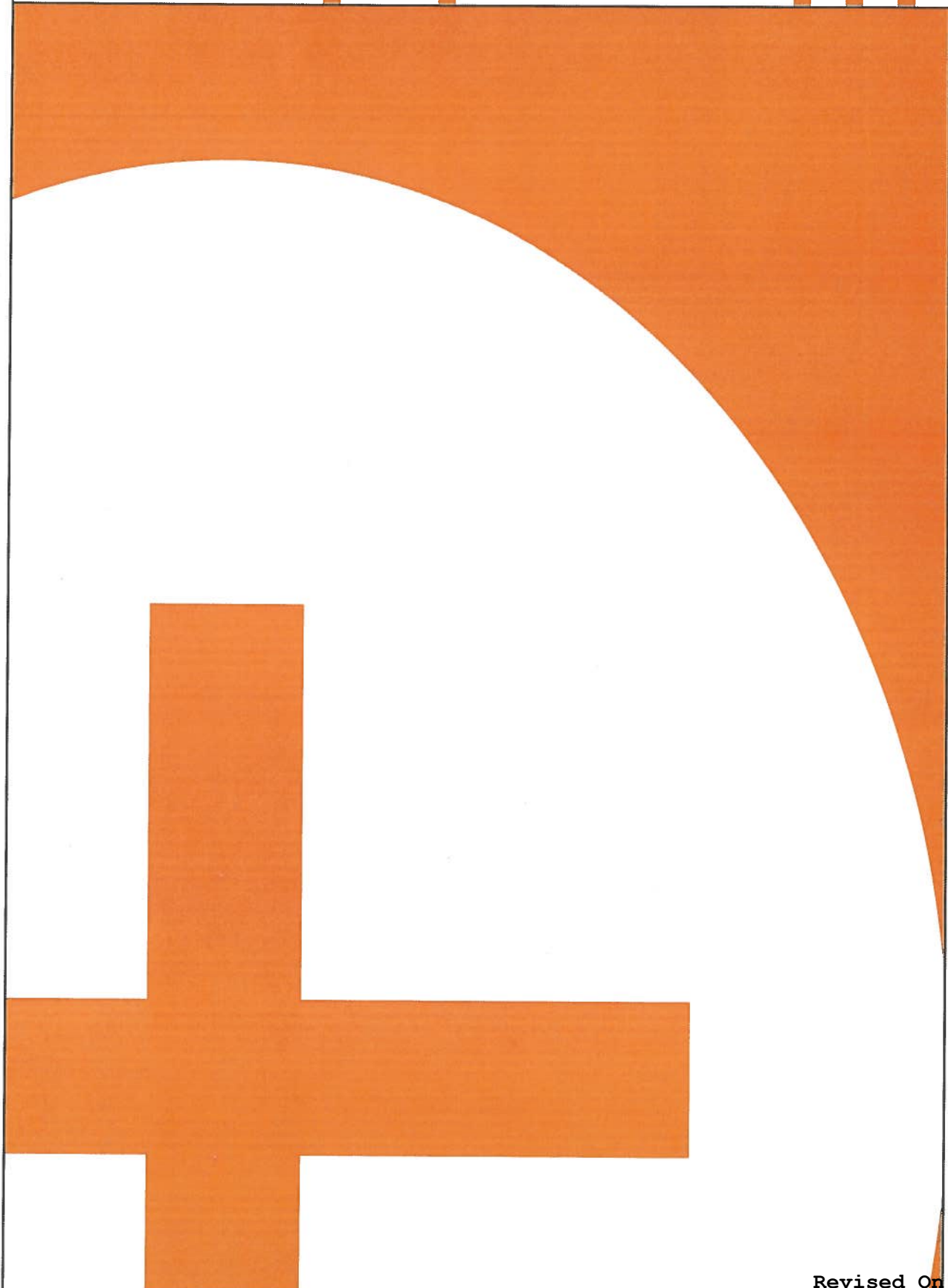
JANUARY 18, 2019

PROJECT NO.

2018.056.00

PHASE

DESIGN CONTROL





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 COLORS & MATERIALS  
 A.03 GRAPHIC LOCATOR PLAN  
 B.01 SIGNAGE FAMILY  
 B.02 RIVERWALK DIRECTIONAL  
 B.03 DIRECTORY/DIRECTIONAL  
 B.04 DIRECTORY  
 B.05 DIRECTIONAL  
 B.06 WATER TAXI ID

**GENERAL NOTES**

- ALL EDGES ARE TO BE PAINTED THE SAME COLOR AS THE FACE UNLESS OTHERWISE NOTED. ALL EXPOSED BACK SIDES ARE TO BE PAINTED THE SAME AS THE FRONT FACE BACKGROUND COLOR, UNLESS OTHERWISE NOTED.
- ALL STANDOFFS TO BE PAINTED SAME COLOR AS ELEMENT IT ATTACHES FROM, UNLESS OTHERWISE NOTED.
- ALL ATTACHMENTS TO BE CONCEALED UNLESS OTHERWISE NOTED.
- ALL ATTACHMENTS TO BE MADE WITH FOAM TAPE AND CONSTRUCTION ADHESIVE AS REQUIRED, UNLESS OTHERWISE NOTED. FABRICATOR TO INFORM DESIGNER IF ALTERNATE MOUNTING METHODS ARE REQUIRED.
- BLACK OUTLINES DENOTE SIGN EDGES AND ARE NOT INCLUDED IN SIGN ARTWORK, UNLESS OTHERWISE NOTED.
- DESIGNER TO PROVIDE ELECTRONIC ARTWORK FOR ALL GRAPHICS IN ADOBE ILLUSTRATOR CS4. FABRICATOR WILL BE RESPONSIBLE FOR CONVERTING FILES IF NEEDED IN A DIFFERENT FILE FORMAT.
- PAINT FOR ALL SIGNAGE AND GRAPHIC COMPONENTS TO HAVE A SATIN FINISH, UNLESS OTHERWISE NOTED.
- ALL FABRICATION METHODS TO CONFORM TO TYPE IIB CONSTRUCTION IN THE INTERNATIONAL BUILDING CODE. ALL TEXTILES TO BE CLASS A RATED.
- SHOP DRAWINGS FOR ALL GRAPHIC AND DECOR ELEMENTS MUST BE SUBMITTED TO DESIGNER FOR REVIEW AND APPROVAL PRIOR TO PROCEEDING WITH FABRICATION. SHOP DRAWINGS TO INCLUDE DETAILED FABRICATION AND ATTACHMENT METHODS.
- ALL SUBSTITUTIONS TO BE APPROVED BY DESIGNER.
- A SITE VISIT WILL BE REQUIRED BY FABRICATOR PRIOR TO FABRICATION.



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Initial	:	/	/00
Date	:	/	/00

**SHEET TITLE**

TABLE OF CONTENTS  
 GENERAL NOTES

**PROJECT NAME**

JACKSONVILLE RIVERWALK  
 WAYFINDING  
 JACKSONVILLE, FL  
 GRAPHICS & DECOR DESIGN  
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**PROJECT NO.**

2018.056.00

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DESIGN CONTROL

**ISSUE DATE**

JANUARY 18, 2019

**SCALE**

AS NOTED

**SHEET**

A.01

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**B**

**GENERAL NOTES**

FUTURA STD - MEDIUM

ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
0123456789 , / : ' " ( ) \* \$ % ! ? \_ = + &



A TYPE FAMILY



B RIVERWALK LOGO

C PROJECT COLORS

COLOR 1 PMS 2387C	COLOR 2 PMS 292C	COLOR 3 PMS 2423U	COLOR 4 WHITE
----------------------	---------------------	----------------------	------------------



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Sheet Date

SHEET TITLE

TYPE FAMILY

RIVERWALK LOGO

PROJECT COLORS

PROJECT NAME

JACKSONVILLE RIVERWALK

WAYFINDING

JACKSONVILLE, FL

GRAPHICS & DECOR DESIGN

CONTROL DOCUMENTS

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ISSUE DATE

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SCALE

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SHEET

A.02



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: / /00  
: / /00  
: / /00  
Date

SHEET TITLE

SIGNAGE FAMILY

PROJECT NAME

JACKSONVILLE RIVERWALK  
WAYFINDING  
JACKSONVILLE, FL  
GRAPHICS & DECOR DESIGN  
CONTROL DOCUMENTS

PROJECT NO.

2018.056.00

PHASE

DESIGN CONTROL

ISSUE DATE

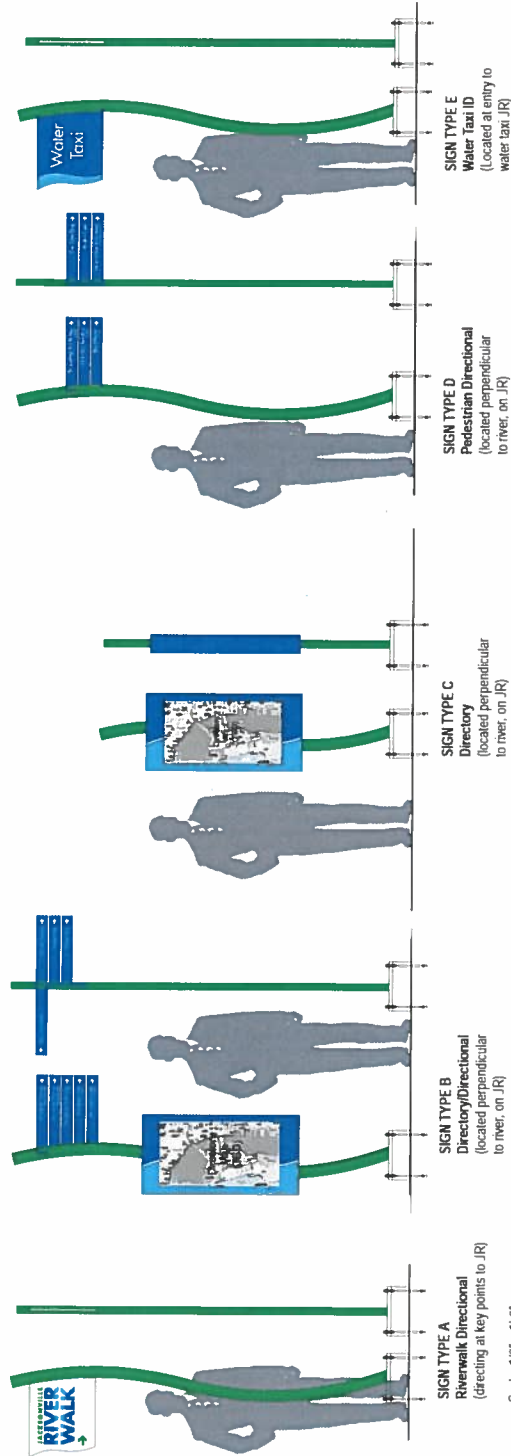
JANUARY 18, 2019

SCALE

AS NOTED

SHEET

B.01



**SIGN TYPE A**  
Riverwalk Directional  
(directing at key points to JR)  
Scale: 1/2" = 1'-0"

**SIGN TYPE B**  
Directory/Directional  
(located perpendicular  
to river, on JR)

**SIGN TYPE C**  
Directory  
(located perpendicular  
to river, on JR)

**SIGN TYPE D**  
Pedestrian Directional  
(located perpendicular  
to river, on JR)

**SIGN TYPE E**  
Water Taxi ID  
(Located at entry to  
water taxi JR)



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DATE : / / 00  
BY : / / 00  
SHEET TITLE : / / 00

SIGN TYPE A  
RIVERWALK DIRECTIONAL

PROJECT NAME

JACKSONVILLE RIVERWALK  
WAYFINDING  
JACKSONVILLE, FL  
GRAPHICS & DECOR DESIGN  
CONTROL DOCUMENTS

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2018.056.00

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JANUARY 18, 2019

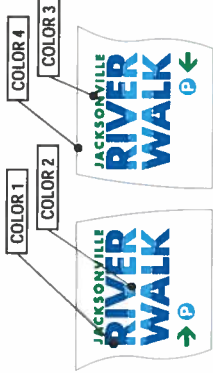
SCALE

AS NOTED

SHEET

B.02

SIGNS:  
A02  
A03  
A187



BACK SIDE  
(WITH ARROW AND 'P' SYMBOL)

SIGNS:  
A04  
A05  
A06  
A07  
A08  
A09



BACK SIDE  
(WITH ARROW)

SIGNS:  
A13



BACK SIDE  
(WITH ARROW)

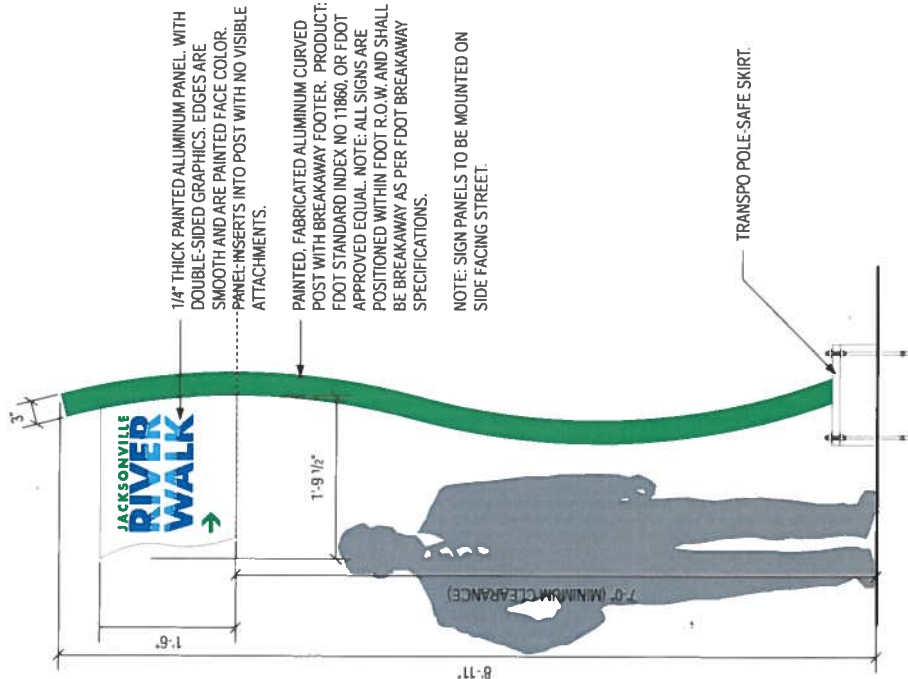
SIGNS:  
A017  
A12  
A15  
A17



BACK SIDE  
(WITHOUT ARROW)



B SIDE VIEW  
Scale: 3/4" = 1'-0"



1/4" THICK PAINTED ALUMINUM PANEL. WITH DOUBLE-SIDED GRAPHICS. EDGES ARE SMOOTH AND ARE PAINTED FACE COLOR. PANEL INSERTS INTO POST WITH NO VISIBLE ATTACHMENTS.

PAINTED, FABRICATED ALUMINUM CURVED POST WITH BREAKAWAY FOOTER. PRODUCT: FOOT STANDARD INDEX NO 11860, OR FOOT APPROVED EQUAL. NOTE: ALL SIGNS ARE POSITIONED WITHIN FDOT R.O.W. AND SHALL BE BREAKAWAY AS PER FDOT BREAKAWAY SPECIFICATIONS.

NOTE: SIGN PANELS TO BE MOUNTED ON SIDE FACING STREET.

TRANSPO POLE-SAFE SKIRT.

A FRONT VIEW: RIVERWALK DIRECTIONAL  
Scale: 3/4" = 1'-0"



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Sheet Date

SHEET TITLE

SIGN TYPE B

DIRECTORY/DIRECTIONAL

PROJECT NAME

JACKSONVILLE RIVERWALK  
WAYFINDING  
JACKSONVILLE, FL  
GRAPHICS & DECOR DESIGN  
CONTROL DOCUMENTS

PROJECT NO.

2018.056.00

PHASE

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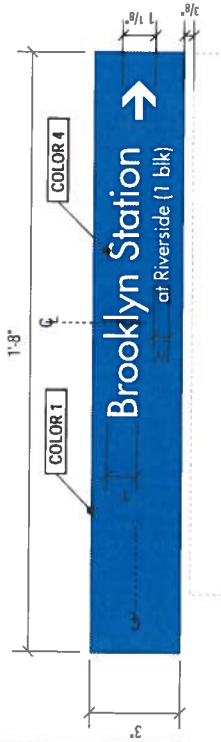
JANUARY 18, 2019

SCALE

AS NOTED

SHEET

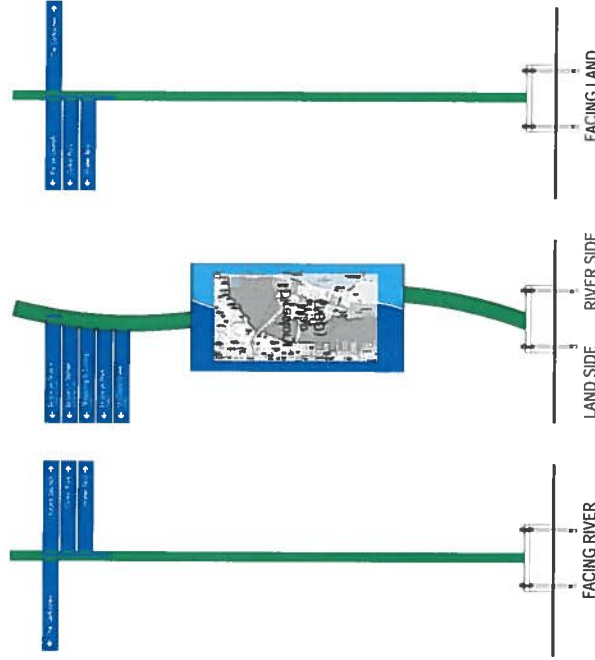
B.03



### B PANEL DETAIL

Scale: 3/4" = 1'-0"

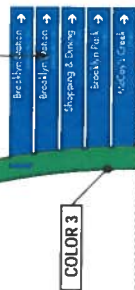
NOTE: DIRECTIONAL/DIRECTORY 3 MESSAGES AND VIEWS



### C ADDITIONAL VIEWS

Scale: 1/2" = 1'-0"

1/4" THICK PAINTED ALUMINUM PANELS, WITH DOUBLE-SIDED VINYL GRAPHICS. EDGES ARE SMOOTH AND ARE PAINTED FACE COLOR. PANEL INSERTS INTO POST WITH NO VISIBLE ATTACHMENTS.



1/8" THICK PAINTED EXTRUDED ALUMINUM BOX WITH INTERNAL WHITE LED ILLUMINATION. GRAPHICS ARE DOUBLE-SIDED.

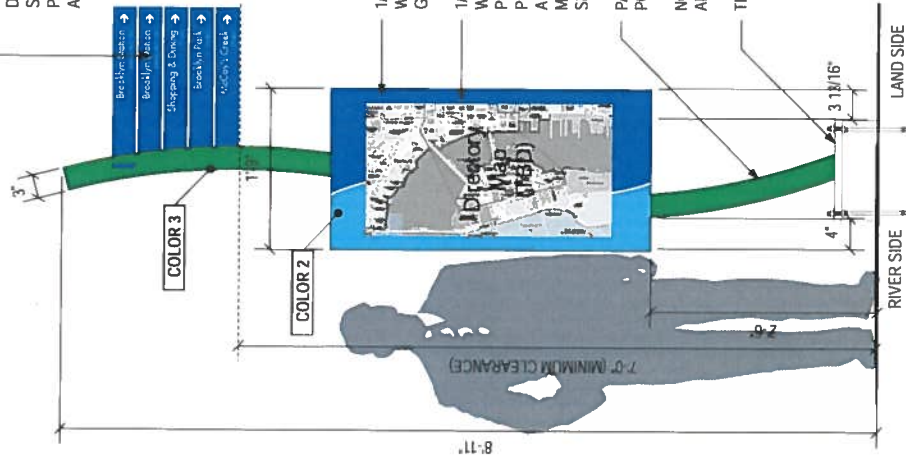
1/2" THICK TRANSLUCENT WHITE ACRYLIC WITH MAP ARTWORK (TO BE PROVIDED) PRINTED DIRECTLY TO SURFACE.

PROTECTIVE UV ANTI-GRAFFITI COATING TO BE APPLIED TO FACE OF ACRYLIC PANEL. MECHANICALLY FASTEN PANEL TO INSIDE OF SIGN CABINET.

PAINTED, FABRICATED ALUMINUM CURVED POST WITH FOOTER, AS REQUIRED.

NOTE: EXACT DIMENSIONS TBD BASED ON MAP ARTWORK DESIGN AND DIRECTORY LISTING.

TRANSPO POLE-SAFE SKIRT.



### A FRONT VIEW: DIRECTORY/DIRECTIONAL

Scale: 3/4" = 1'-0"





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Initial Date

SHEET TITLE

SIGN TYPE C  
DIRECTORY

PROJECT NAME

JACKSONVILLE RIVERWALK  
WAYFINDING  
JACKSONVILLE, FL  
GRAPHICS & DECOR DESIGN  
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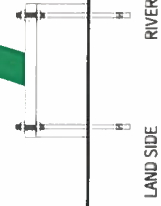
SCALE

AS NOTED

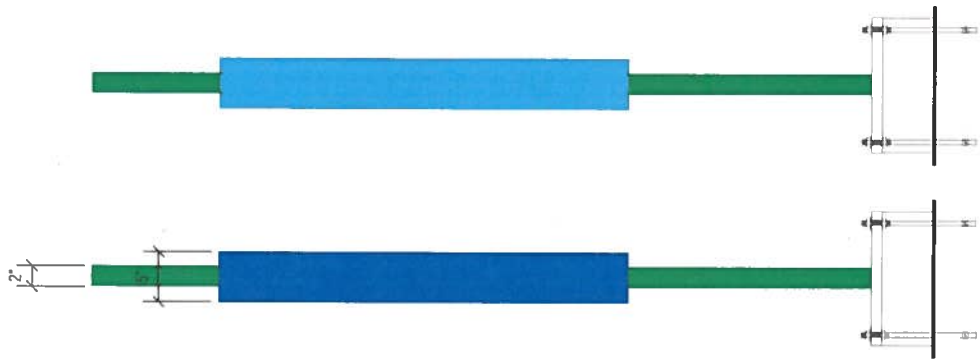
SHEET

B04

COLOR 3  
COLOR 1  
COLOR 4  
COLOR 2



LAND SIDE RIVER SIDE



LAND SIDE RIVER SIDE

1/8" THICK PAINTED EXTRUDED ALUMINUM BOX WITH INTERNAL WHITE LED ILLUMINATION. GRAPHICS ARE DOUBLE SIDED.

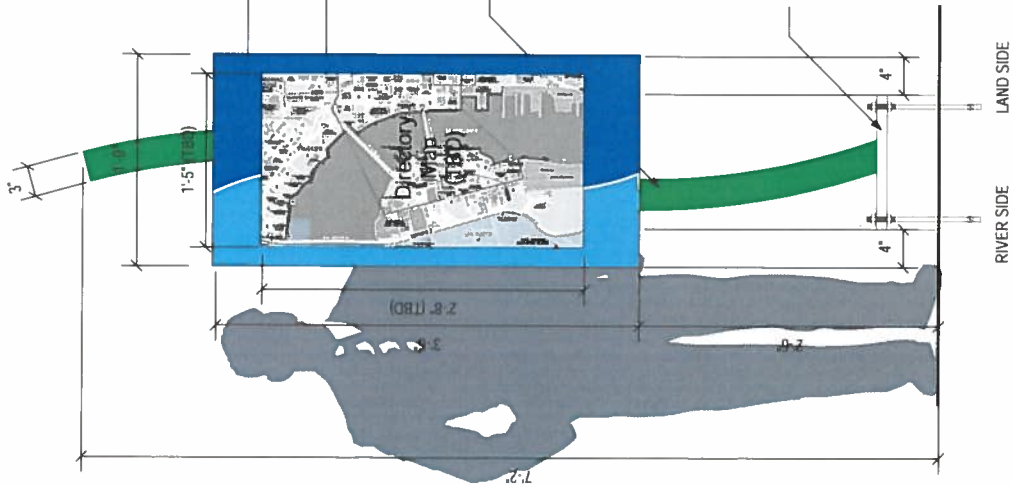
1/2" THICK TRANSLUCENT WHITE ACRYLIC WITH MAP ARTWORK (TO BE PROVIDED) PRINTED DIRECTLY TO SURFACE.

PROTECTIVE UV ANTI-GRAFFITI COATING TO BE APPLIED TO FACE OF ACRYLIC PANEL. MECHANICALLY FASTEN PANEL TO INSIDE OF SIGN CABINET.

PAINTED, FABRICATED ALUMINUM CURVED POST WITH FOOTER, AS REQUIRED.

NOTE: EXACT DIMENSIONS TBD BASED ON MAP ARTWORK DESIGN AND DIRECTORY LISTING.

TRANSPO POLE-SAFE SKIRT.



RIVER SIDE LAND SIDE

**C** BACK VIEW: DIRECTORY  
Scale: 1" = 1'-0"

**B** SIDE VIEW: DIRECTORY  
Scale: 1" = 1'-0"

**A** FRONT VIEW: DIRECTORY  
Scale: 1" = 1'-0"



APPROVED

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: / /00

: / /00

Initial \_\_\_\_\_ Date \_\_\_\_\_

SHEET TITLE

SIGN TYPE D  
DIRECTIONAL

PROJECT NAME

JACKSONVILLE RIVERWALK  
WAYFINDING  
JACKSONVILLE, FL  
GRAPHICS & DECOR DESIGN  
CONTROL DOCUMENTS

PROJECT NO.

2018.056.00

PHASE

DESIGN CONTROL

ISSUE DATE

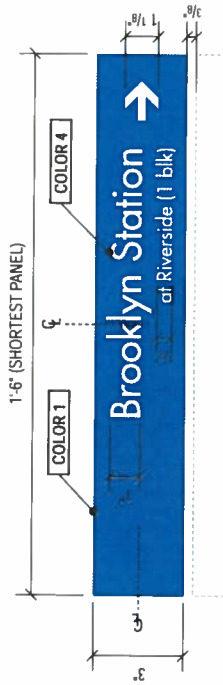
JANUARY 18, 2019

SCALE

AS NOTED

SHEET

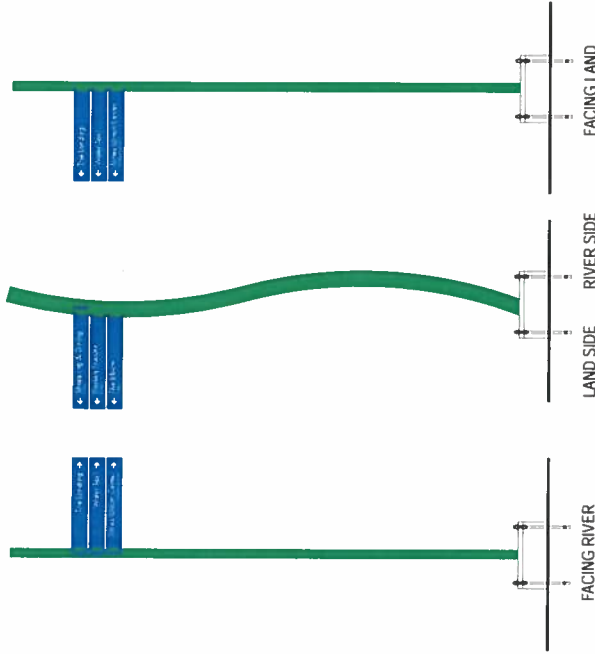
B.05



**B** PANEL DETAIL

Scale: 3/4" = 1'-0"

NOTE: DIRECTIONAL/DIRECTORY 3 MESSAGES AND VIEWS



**C** ADDITIONAL VIEWS

Scale: 1/2" = 1'-0"

1/4" THICK PAINTED ALUMINUM PANELS, WITH DOUBLE-SIDED VINYL GRAPHICS. EDGES ARE SMOOTH AND ARE PAINTED FACE COLOR. PANEL INSERTS INTO POST WITH NO VISIBLE ATTACHMENTS.

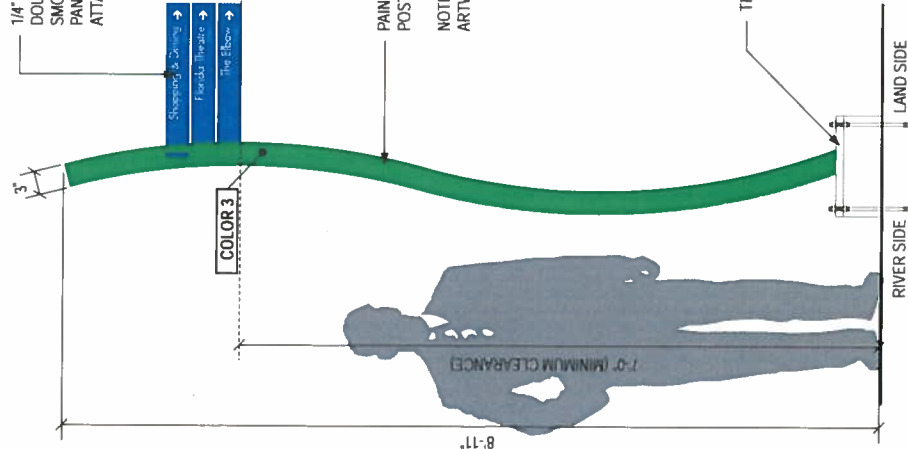


COLOR 3

PAINTED, FABRICATED ALUMINUM CURVED POST WITH FOOTER, AS REQUIRED.

NOTE: EXACT DIMENSIONS TBD BASED ON MAP ARTWORK DESIGN AND DIRECTORY LISTING.

TRANSPO POLE-SAFE SKIRT.



**A** FRONT VIEW: DIRECTIONAL

Scale: 3/4" = 1'-0"



APPROVED

: / /00

: / /00

: / /00

Date

SHEET TITLE

SIGN TYPE E

WATER TAXI ID

PROJECT NAME

JACKSONVILLE RIVERWALK  
WAYFINDING  
JACKSONVILLE, FL  
GRAPHICS & DECOR DESIGN  
CONTROL DOCUMENTS

PROJECT NO.

2018.056.00

PHASE

DESIGN CONTROL

ISSUE DATE

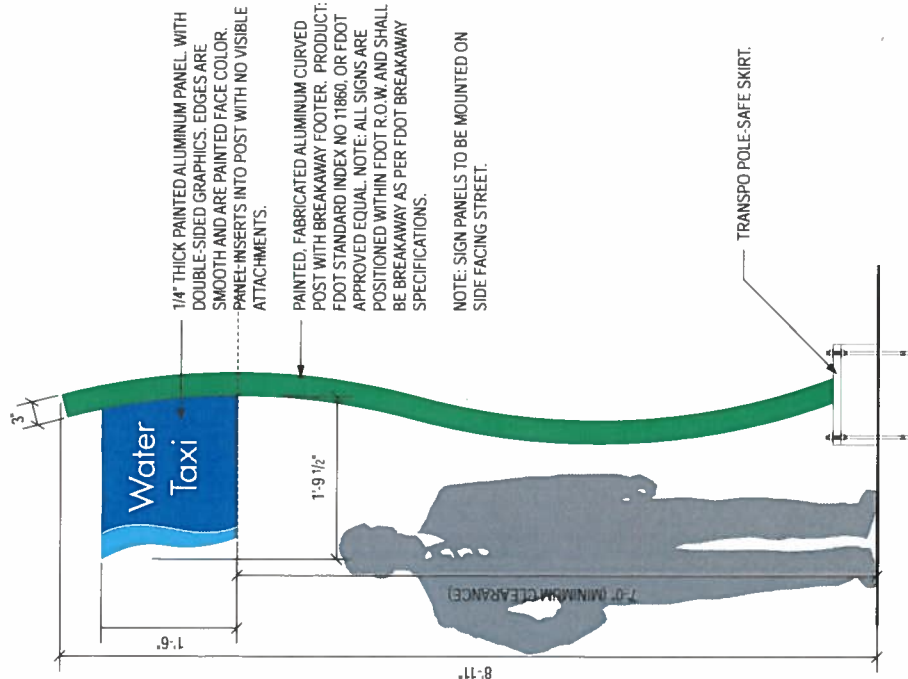
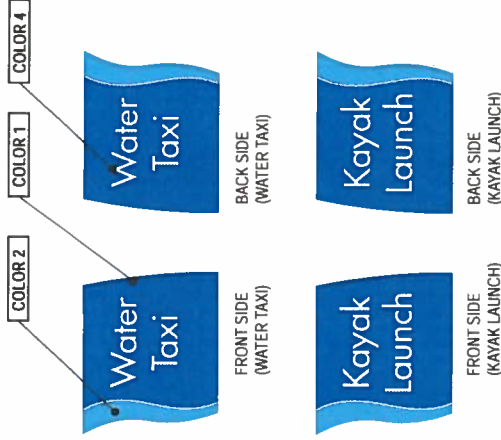
JANUARY 18, 2019

SCALE

AS NOTED

SHEET

B.06



1/4" THICK PAINTED ALUMINUM PANEL. WITH DOUBLE-SIDED GRAPHICS. EDGES ARE SMOOTH AND ARE PAINTED FACE COLOR. PANEL INSERTS INTO POST WITH NO VISIBLE ATTACHMENTS.

PAINTED, FABRICATED ALUMINUM CURVED POST WITH BREAKAWAY FOOTER. PRODUCT: FDOT STANDARD INDEX NO 11860. OR FDOT APPROVED EQUAL. NOTE: ALL SIGNS ARE POSITIONED WITHIN FDOT R.O.W. AND SHALL BE BREAKAWAY AS PER FDOT BREAKAWAY SPECIFICATIONS.

NOTE: SIGN PANELS TO BE MOUNTED ON SIDE FACING STREET.

TRANSPPO POLE-SAFE SKIRT.

C LAYOUTS  
Scale: 3/4" = 1'-0"

B SIDE VIEW  
Scale: 3/4" = 1'-0"

A FRONT VIEW: WATER TAXI ID  
Scale: 3/4" = 1'-0"

# EXHIBIT H

## **EXHIBIT H**

### **Riverwalk Improvements**

The Riverwalk improvements, roughly 187 linear feet in length along the riverfront and turning the corner along the boat ramp to the circular overlook, will include a 25' wide pedestrian pathway with colorful paving patterns conforming to the Riverwalk Design Guidelines along with 70% shade coverage, provided by both landscaping and shade sail elements consistent with the Riverwalk Plant palette and Riverwalk Design Guidelines. Plant material shall be irrigated to ensure viability. In addition, street furnishings including benches and trash receptacles and lighting fixtures meeting the Riverwalk Design Criteria will be included. Signage conforming to the Riverwalk Wayfinding sign package shall be included where appropriate. The improvements will include necessary foundations, soil remediation, and other infrastructure required to install the above.

# EXHIBIT I

## **EXHIBIT I**

### **Riverwalk Parcel**

That portion of property that extends 25 feet on the upland side parallel to the St. John's River bulkhead that establishes the boundary of Project Parcel "C" adjacent to the St. John's River.

# EXHIBIT J



**EXHIBIT J**

**Form of Quitclaim Deed with Repurchase Right**

Prepared by and return to:

John Sawyer, Esq.  
City of Jacksonville  
Office of General Counsel  
117 West Duval Street Suite 480  
Jacksonville, FL 32202

**Parcel Identification No.:** \_\_\_\_\_-\_\_\_\_\_

**QUIT-CLAIM DEED WITH REPURCHASE RIGHT**

**This Quit-Claim Deed with Repurchase Right** (“Deed”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, between the **CITY OF JACKSONVILLE**, a municipal corporation, whose business address is c/o Office of General Counsel Government Operations Department, 117 West Duval Street Suite 480, Jacksonville, FL 32202 (“Grantor”), and \_\_\_\_\_, a Florida limited liability company, whose address is \_\_\_\_\_ (“Grantee”).

**WITNESSETH:**

Grantor, for and in consideration of the sum of Ten and no/100 dollars (\$10.00) and other valuable considerations, receipt of which is hereby acknowledged, does hereby remise, release and quit-claim unto Grantee, its successors and assigns, all the right, title, interest, claim and demand which the Grantor has in and to the following described land, situate, lying and being in the County of Duval, State of Florida (the “Property”):

[Insert legal from survey and title commitment]

**TO HAVE AND HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or in equity, to the only proper use, benefit and behoof of Grantee, its successors and assigns forever.

BY ACCEPTANCE OF THIS DEED, GRANTEE ACKNOWLEDGES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY,

INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) GOVERNMENTAL RIGHTS OF POLICE POWER OR EMINENT DOMAIN, (G) DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS: (1) NOT KNOWN TO GRANTOR AND NOT SHOWN BY THE PUBLIC RECORDS BUT KNOWN TO GRANTEE AND NOT DISCLOSED IN WRITING BY THE GRANTEE TO THE GRANTOR PRIOR TO THE DATE HEREOF, (2) RESULTING IN NO LOSS OR DAMAGE TO GRANTEE, OR (3) ATTACHING OR CREATED SUBSEQUENT TO THE DATE HEREOF, (H) VISIBLE AND APPARENT EASEMENTS AND ALL UNDERGROUND EASEMENTS, THE EXISTENCE OF WHICH MAY ARISE BY UNRECORDED GRANT OR BY USE, (I) ALL MATTERS THAT WOULD BE DISCLOSED BY A CURRENT SURVEY OF THE PROPERTY, (J) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (K) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (L) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS AS DEFINED IN THE OPTION AGREEMENT PURSUANT TO WHICH THIS QUITCLAIM DEED IS DELIVERED. GRANTEE FURTHER ACKNOWLEDGES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE CONVEYANCE OF THE PROPERTY IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS.

### **REPURCHASE RIGHT**

Grantor and Grantee are parties to that certain Redevelopment Agreement dated \_\_\_\_\_, 2021, (the "Agreement"), which requires Grantee to construct on the Property Residential Improvements, Restaurant Improvements, and Parking Garage Improvements, all as defined in the Agreement ("Project"). The Agreement requires Grantee to Commence construction of the Residential Improvements and Parking Garage Improvements no later than October 31, 2022. The terms "Commence Construction" and "Commencement of Construction" mean that permits for the Residential Improvements and Parking Garage Improvements (as defined in the Agreement) of the Project have been issued and material construction thereof has begun

and is ongoing. Fee simple title to the Property shall, upon Grantor's execution and recording in the Duval County Public Records of the escrowed Quitclaim Deed in the form attached hereto as **Exhibit B** ("Repurchase Deed"), revert to Grantor in the event of Grantee's failure to develop the Property within the above time period required by the Agreement. At the time of such repurchase by Grantor, the title to the Property shall be free and clear of all liens, encumbrances and other title matters, except for those in existence immediately prior to the conveyance of the Property to Grantee. Upon such failure by Grantee to timely develop the Property, Grantor, upon payment of the Repurchase Price a set forth in the Agreement, shall be entitled to execute and record the Repurchase Deed in the Duval County Public Records, and such Repurchase Deed shall evidence the conveyance to Grantor of fee simple title to the Property without the requirement of any additional notice or act by Grantor or Grantee. In the event the Project, Residential Improvements and Parking Garage Improvements Commence consistent with the terms and conditions of the Agreement, then Grantor shall execute a recordable release of this repurchase right.

**IN WITNESS WHEREOF**, Grantor has caused this instrument to be executed in its name on the day and year first above written.

Signed, sealed and delivered  
in the presence of:

CITY OF JACKSONVILLE,  
FLORIDA

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Lenny Curry, Mayor

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Attest: \_\_\_\_\_  
James B. McCain, Jr.  
Corporation Secretary

[Seal]

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of \_\_ physical presence or \_\_ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, as Mayor, and James B. McCain, Jr., as Corporation Secretary, respectively, of the City of Jacksonville, Florida, a municipal corporation and a political subdivision of the State of Florida. They are ( ) personally known to me or ( ) have produced \_\_\_\_\_ as identification.

---

Notary Public  
My commission expires:

FORM APPROVED:

---

Office of the General Counsel

**Exhibit A to Quitclaim Deed**

Property Description

(To be inserted after confirmation by survey)

**Exhibit B to Quitclaim Deed**

Repurchase Deed

[To be drafted prior to repurchase closing]

# EXHIBIT K

**EXHIBIT K**

Right of 1<sup>st</sup> Refusal



Prepared by and when  
recorded return to:  
John C. Sawyer, Jr.  
Assistant General Counsel  
Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202

### RIGHT OF FIRST REFUSAL AGREEMENT

This RIGHT OF FIRST REFUSAL AGREEMENT (this "Agreement") is made and entered into effective as of the \_\_ day of \_\_\_\_\_, 2021 (the "Effective Date"), by and between the CITY OF JACKSONVILLE a municipal corporation and a political subdivision of the State of Florida (the "City"), and RELATED DEVELOPMENT, LLC, a Florida limited liability company ("Grantee").

1. Grant of Right of First Refusal. The Grantor, in consideration of ten dollars (\$10) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants to Grantee a right of first refusal to purchase the Property (as hereinafter defined) on the terms and conditions set forth herein.

2. Period of Right of First Refusal. The ROFR shall commence as of the Effective Date and shall terminate on the earlier to occur of:

- (i) a Sale of the Property in compliance with the terms of this Agreement; or
- (ii) the tenth(10<sup>th</sup>) anniversary of the Effective Date.

3. Definitions. The following terms, when used in this Agreement, shall have the respective meanings set forth below:

(a) Property: All or any portion of the land located in Duval County, Florida, more particularly described in Exhibit A attached hereto and made a part hereof for all purposes, with any and all improvements thereon.

(b) Sale of the Property. Any sale, assignment, transfer, conveyance or other disposition of the Property or any part thereof or any interest therein by the Grantor.

(c) Civic Use. Any public or quasi-public facilities including, without limitation, parks, green spaces, museums, aquariums, libraries, art exhibitions, galleries, planetariums, concert halls, theaters, performance spaces, community centers, botanical gardens, arboretums, historical exhibits, zoos and other similar uses.

4. Proposed Sale of the Property to a Third Party.

(a) Notice. If during the term of this Agreement Grantor shall receive an offer with respect to the Sale of the Property proposing to redevelop the Property for a commercial use other than a Civic Use, which Grantor desires to accept, Grantor shall deliver to Grantee written notice describing in reasonable detail the material terms of the proposed Sale of the Property, along with copies of such accepted offer, letter of intent or contract of sale which has or will be entered into with respect to such proposed Sale of the Property (collectively, the "Notice").

(b) Exercise of Grantee's Right of First Refusal. Grantee's right of first refusal shall be exercised, if at all, by delivering a written exercise of Grantee's right of first refusal to Grantor within thirty (30) days after the date of the Notice (the "ROFR Exercise"), along with the payment of any deposit money required under the proposed sale in the Notice (the "Nonrefundable Deposit").

(c) Redevelopment Plan. Within one hundred twenty (120) days after the delivery of the ROFR Exercise, Grantee shall submit a written plan of redevelopment for the Property which shall include, without limitation, (i) a purchase price equal or greater to that set forth in the Notice, (ii) a description of the commercial improvements to be constructed on the Property which shall be of equal value and similar use as to that proposed in the Notice, (iii) a construction schedule for the completion of the construction of such commercial improvements on the same or shorter performance schedule as set forth in the Notice, (iv) a calculation showing in detail how Grantee's redevelopment project will result in substantially the same tax revenue to the Grantor as the project in the Notice, and (v) any other material economic terms set forth in the Notice, (the "Redevelopment Plan"). After timely delivery of the Redevelopment Plan, Grantee and Grantor shall promptly use good faith efforts to enter into a contract of sale under which the Grantee shall be bound to purchase and redevelop the Property in accordance with the terms of the Redevelopment Plan that are approved by the Grantor (the "Contract"). The other terms of the Contract shall be reasonably agreed to by the Grantor and the Grantee and generally in accordance with the custom in real property sales transactions conducted in Duval County, Florida.

(d) If Grantee fails to timely deliver to the Grantor either (i) the ROFR Exercise along with the Nonrefundable Deposit, or (ii) the Redevelopment Plan, such failure shall be deemed to constitute Grantee's election not to enter into a contract of sale to purchase the Property pursuant to its right of first refusal, and, in either event, the Grantor shall be free at any time thereafter to effectuate the Sale of the Property to the third party set forth in the Notice; provided the consideration to be paid by such third party shall not be less than the purchase price set forth in the Notice and further provided the other terms of such sale shall not differ in any material respect from the terms set forth in the Notice. Except for the Grantor's limited right to consummate a sale of the Offered Property as provided in the preceding sentence, the ROFR shall otherwise remain in full force and effect with respect to

the Property. Time is of the essence with respect to the right of first refusal and Section 4 of this Agreement.

5. Notices. Any notice required or permitted to be given pursuant to the terms of this Easement Agreement shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts or electronic mail, only to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notices shall be deemed given and received for all purposes under this instrument and shall be effective only upon receipt or when delivery is attempted and refused.

Grantor:

City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attention: Lori Boyer  
Email: boyerl@coj.net

Grantee:

Related Development, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attention: Steve Patterson  
Email: [spatterson@relatedgroup.com](mailto:spatterson@relatedgroup.com)

With a copy to:

Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: General Counsel

With a copy to:

Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attention: Kimberly S. LeCompte, Esq.  
Email: [lcomptek@gtlaw.com](mailto:lcomptek@gtlaw.com)

The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.

6. Miscellaneous.

6.1 Entire Agreement. This Agreement, including the Exhibit, contains the entire agreement between the parties pertaining to the subject matter hereof and fully supersedes all prior agreements and understandings between the parties pertaining to such subject matter. No change in or amendment to this Agreement shall be valid unless set forth in writing and signed by all of the parties after the execution of this Agreement.

6.2 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of Florida.

6.3 Attorneys' Fees. In the event of any controversy, claim or dispute between the parties affecting or relating to the subject matter or performance of this Agreement, each party shall be responsible for its own attorneys' fees and costs in connection with any legal action related to this Agreement.

6.4 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

6.5 Assignment. This Agreement shall not be assigned or otherwise transferred by Grantee without the prior written consent of Grantor which consent may be withheld in Grantor's sole and absolute discretion.

6.6 **WAIVER OF RIGHT TO TRIAL BY JURY.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

*[the remainder of this page is intentionally left blank]*

IN WITNESS WHEREOF, the undersigned have executed this Agreement effective as of the date first above written.

**GRANTOR:**

**WITNESSES:**

**CITY OF JACKSONVILLE**, a body politic and corporate of the State of Florida

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

By: \_\_\_\_\_  
Lenny Curry  
Mayor

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

**ATTEST:**

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**GRANTEE:**

**RELATED DEVELOPMENT, LLC**, a Florida limited liability company

**WITNESSES**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RELATED DEVELOPMENT, LLC**, a Florida limited liability company, on behalf of the company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

Exhibit A

Legal Description of the Property

# EXHIBIT L



**EXHIBIT L**

Pedestrian Access and Utility Easement to City

## EXHIBIT L

Prepared by:

John C. Sawyer, Jr.  
Assistant General Counsel  
Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202

### NON-EXCLUSIVE PEDESTRIAN ACCESS AND UTILITY EASEMENT AGREEMENT

This NON-EXCLUSIVE PEDESTRIAN ACCESS AND UTILITY EASEMENT AGREEMENT (“Easement Agreement”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, (“**Grantor**”) whose address is 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133, and the **CITY OF JACKSONVILLE**, a body politic and municipal corporation existing under the laws of the State of Florida (“**Grantee**”), whose mailing address is c/o Downtown Investment Authority, 117 W. Duval Street, Suite 310, Jacksonville, Florida 32202.

#### RECITALS:

A. Grantor owns certain property described on **Exhibit A** attached hereto and made a part hereof (the “Easement Area”), adjacent to which it has constructed certain improvements consisting in part of 325 multi-family residential units, a structured parking facility with 500 parking spaces, a restaurant with 1,800 square feet of indoor space and certain outdoor space, as well as the City Marina Improvements and certain Riverwalk Improvements on approximately 3.43 acres of real property located generally at 835 Museum Circle, Jacksonville, Florida.

B. Grantee owns certain real property adjacent to the Easement Area located on the property set forth on **Exhibit B** (the “Benefited Parcel”), which lies adjacent to the Easement Area.

C. Grantee has requested, and Grantor has agreed to provide, a non-exclusive easement for pedestrian ingress, egress and passage over and across the Easement Area, and for the installation, operation and maintenance of underground utilities, according to the terms and conditions more particularly set forth herein.

NOW, THEREFORE, in consideration of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of Easement Rights.** Grantor hereby bargains, sells, grants and conveys unto Grantee, its successors and assigns, a perpetual, unobstructed, non-exclusive easement on, over and across the Easement Area for the purpose of pedestrian access, ingress, egress and passage by Grantor, its successors and assigns, and the general public. The easement rights granted herein are for the benefit of and appurtenant to the Benefited Parcel. In addition, Grantor hereby grants, bargains, sells and conveys unto Grantee, its successors and assigns, a perpetual, unobstructed right of way and easement for access to and construction, use, operation, laying, installation, maintenance, replacement, modification, improvement, and/or repair, either above or below the surface of the ground, of facilities, lines and associated equipment for fuel, electrical, water reuse, water, sewer, and any other utilities or quasi-utilities, either or all, on, along over, through, across, or under the Easement Area, with the right of ingress and egress to and over the Easement Area, and for removing at any time any and all of said improvements under or in said Easement Area, together also with the right and easements, privileges and appurtenances in and to said land which may be required for the enjoyment of the rights herein granted, for so long as the Easement Area is used for the purposes of this grant. Notwithstanding the foregoing, any electrical utilities installed within the Easement Area shall be restricted to subsurface installations and shall not be located on or above the surface of the Easement Area. Grantee intends to utilize the Easement Area in part to install above ground fuel storage tanks and fuel lines for the same to serve the adjacent marina. The location of the storage tanks shall be as depicted on Exhibit A attached hereto, or otherwise in a location as mutually agreed upon by the parties hereto.

2. **Reserved Rights.** Notwithstanding anything in this Agreement to the contrary or the foregoing grant of easement rights, Grantor, for itself and its successors and assigns, hereby reserves and retains the right, so long as the following are not in conflict with or inconsistent with the grants made herein, to (a) use, and to grant to others the right to use the Easement Area for any lawful purpose or use not inconsistent with the grants made herein, (b) grant additional easements and licenses to others over, across, and under the Easement Area, and (c) alter, modify or replace all or part of the sidewalks, driveways and other improvements located within the Easement Area in such a manner which does not materially diminish or prevent the access and use provided as of the date of this Easement Agreement. Grantee acknowledges and agrees that the Easement Area is a public area and Grantee's rights granted herein are co-equal to the rights of the public to use the Easement Area as a public walkway.

3. **Restrictions on Use of Easement Area.** Grantee agrees that in utilizing the Easement Area, Grantee will not unreasonably interfere with any existing use of the Easement Area as of the date of this Easement Agreement by the Grantor, or its successors and assigns. Any property of Grantor damaged by the Grantee in the exercise of the rights granted herein will be restored as soon as reasonably practical following such activity to its previously existing condition by the Grantee, at its sole cost and expense.

4. **Notices.** Any notice required or permitted to be given pursuant to the terms of this Easement Agreement shall be in writing and personally delivered or sent by

registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts, only to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notices shall be deemed given and received for all purposes under this instrument and shall be effective only upon receipt or when delivery is attempted and refused.

Grantor:

City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attention: Lori Boyer  
Email: boyerl@coj.net

Grantee:

RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attention: Steve Patterson  
Email: [spatterson@relatedgroup.com](mailto:spatterson@relatedgroup.com)

With a copy to:

Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: General Counsel

With a copy to:

Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attention: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.

5. **Attorneys Fees.** If any lawsuit, arbitration or other legal proceeding (including, without limitation, any appellate proceeding) arises in connection with the interpretation or enforcement of this Easement Agreement, each party shall be responsible for its own costs and expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection therewith, in preparation therefor and on appeal therefrom.

6. **Miscellaneous.** This Easement Agreement shall be construed under the laws of the State of Florida. Venue for any action for the interpretation or enforcement of this Easement Agreement shall lie only in Duval County, Florida. This Easement Agreement may only be modified or supplemented in writing signed by the parties, or their heirs, successors and assigns, and any modification shall take effect only upon recordation of the signed instrument in the Public Records of Duval County, Florida

7. **Beneficiaries.** This Easement Agreement and all of the provisions, representations, covenants, and conditions contained herein shall be binding upon and enforceable by, and inure to the benefit of, Grantor, Grantee, and their respective successors and assigns who own the Riverwalk Parcel or the Benefited Property, respectively, and shall be appurtenant to and binding upon the parcels of land described

herein it being understood that the rights and obligations herein shall run with the title to such lands.

8. **WAIVER OF RIGHT TO TRIAL BY JURY.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

*[the remainder of this page is intentionally left blank]*

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first written above.

**GRANTOR:**

**WITNESSES**

**RD RIVER CITY BREWERY, LLC**, a  
Florida limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Print name: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, on behalf of the company, who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

**GRANTEE:**

**CITY OF JACKSONVILLE**, a  
body politic and corporate of the  
State of Florida

**WITNESSES:**

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

By: \_\_\_\_\_  
Lenny Curry  
Mayor

**ATTEST:**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**Easement Area**

[To be inserted after confirmation by survey.]



**EXHIBIT B**

**Benefited Parcel**

[To be added]

# EXHIBIT M

**EXHIBIT M**

City Marina Improvements Costs Disbursement Agreement

## CITY MARINA IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT

**THIS CITY MARINA IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (the “Effective Date”) between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (“City”), the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City (the “DIA”), and **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company (“Developer”). Capitalized terms not otherwise defined herein shall have the meaning a set forth in the RDA, defined below.

### ARTICLE 1 PRELIMINARY STATEMENTS

#### 1.1 **Background; City Marina Improvements.**

1.1.1 City, DIA and Developer have previously entered into that certain Redevelopment Agreement dated \_\_\_\_\_, 2021 (the “RDA”), pursuant to which City and DIA will provide certain incentives to Developer to construct certain Improvements (as defined in the RDA) consisting in part of 325 multi-family residential units, a structured parking facility with 500 parking spaces, a restaurant with 1,800 square feet of indoor space and certain outdoor space, as well as the City Marina Improvements and Riverwalk Improvements (each as defined in the RDA) on approximately 3.43 acres of real property located generally at 835 Museum Circle, Jacksonville, Florida, as more particularly described in the RDA.

1.1.2 The Developer has agreed that as part of the Project (as defined in the RDA) that it will construct certain City Marina Improvements on City-owned property in accordance with the terms and conditions of this Agreement and the RDA and that will be funded by the City in the up-to, maximum amount of \$1,143,807, with all costs in excess thereof being the responsibility of the Developer.

1.1.3 The City has determined that the design, engineering, permitting, and construction of the City Marina Improvements can most efficiently and cost effectively be completed by Developer simultaneously with its Project (as defined in the RDA). Developer is willing to design, engineer, permit and construct the City Marina Improvements in accordance with applicable Florida law for public projects, including but not limited to pursuant to procedures consistent with Section 287.055, Florida Statutes and otherwise generally consistent with Chapter 126 of the City’s Ordinance Code provided the City contributes to the cost of the City Marina Improvements as provided herein.

1.1.4 The City has requested, and Developer has agreed, that Developer will design, engineer, permit, and construct the City Marina Improvements as specifically described and depicted on **Exhibit A** attached hereto and incorporated herein by this reference. The Plans and Specifications for the City Marina Improvements shall be incorporated into **Exhibit A** as set forth below. The City has agreed to fund the design, engineering, permitting and construction of the City Marina Improvements in a maximum amount equal to the lesser of: (i) the actual Verified

Total Project Costs for the construction of the City Marina Improvements; or (ii) ONE MILLION ONE HUNDRED FORTY-THREE THOUSAND EIGHT HUNDRED SEVEN AND NO/100 DOLLARS (\$1,143,807.00), with the balance, if any, being funded by Developer.

1.2 Design, Construction Budget. A final budget setting forth the costs of the City Marina Improvements shall be submitted to the City for its administrative review and approval prior to Developer entering into any contracts for such work, and the final, approved budget for the City Marina Improvements shall be attached hereto as Exhibit C. The City will provide such approvals within ten (10) business days of receiving the final budget.

1.3 Jacksonville Small and Emerging Businesses. It is important to the economic health of the community that whenever a person/entity receives incentives for construction, that the person/entity and its contractors use good faith efforts to provide contracting opportunities to small and emerging business enterprises in Duval County, pursuant to Section 7.22 hereof.

1.4 Maximum Indebtedness. The total maximum indebtedness of City for the City Marina Improvements and financial obligations under this Agreement is ONE MILLION ONE HUNDRED FORTY-THREE THOUSAND EIGHT HUNDRED SEVEN AND NO/100 DOLLARS (\$1,143,807.00).

1.5 Availability of Funds. Notwithstanding anything to the contrary herein, all of City's financial obligations under this Agreement are subject to and contingent upon the availability of lawfully appropriated funds for the City Marina Improvements and this Agreement; provided, however, that the DIA staff agree to include, as needed on an annual basis, funding for the DIA's financial obligations hereunder in its annual budget for submission to the DIA Board and City Council for approval.

**NOW, THEREFORE**, in consideration of the mutual undertakings and agreements herein of City and Developer, and for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, City and Developer agree that the above preliminary statements are true and correct, and the parties represent, warrant, covenant, and agree as follows:

## **ARTICLE 2 DEFINITIONS**

The foregoing preliminary statements are true and correct and are hereby incorporated herein by this reference. As used in this Agreement, the following terms shall have the following meanings.

2.1 **"Budget"** means the line-item budget of Total Project Costs for the City Marina Improvements attached hereto as Exhibit C, and showing the total costs for each line item, as the same may be review and approved by the DIA and revised from time to time with the written approval of Developer and the City and DIA a set forth herein, subject to the restrictions and limitations contained herein. The final Budget for the City Marina Improvements shall be subject to the review and approval by the City in its reasonable discretion.

2.2 **“City Marina Area”** means the area on which the City Marina Improvements will be constructed, as further detailed on **Exhibit B** attached hereto.

2.3 **“City Marina Improvements”** shall have the meaning as set forth in the RDA and means any portion of the City Marina Improvements or other related improvements described herein as determined by the context of the usage of such term.

2.4 **“City Marina Improvements Costs”** means the Total Project Costs of the design, engineering, permitting and construction of the City Marina Improvements to be undertaken by Developer.

2.5 **“City Marina Improvements Documents”** means this Agreement and any other documents executed in connection herewith between the parties hereto.

2.6 **“Commence Construction”** The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the City Marina Improvements means the date when Developer (i) has obtained all Federal, State or local permits as required for the construction of such portion of the City Marina Improvements, and (ii) has begun physical, material construction (e.g., site demolition, land clearing, utility installation, or such other evidence of commencement of construction as may be approved by the City in its reasonable discretion) of the City Marina Improvements on an ongoing basis without any Impermissible Delays. Developer shall provide written notice to City of the actual commencement date with three (3) business days thereof (the “Commencement Date”).

2.7 **“Completion of Construction”** The terms "Complete Construction" or "Completion of Construction" or “Completion” as used herein when referencing the City Marina Improvements means Substantial Completion (as defined below in this Article 2) of such City Marina Improvements.

2.8 **“Completion Date”** The term “Completion Date” as used herein means the completion date described in Section 3.7 hereof.

2.9 **“Construction Contract”** means any contract between Developer and a General Contractor for the construction the City Marina Improvements entered into after the Effective Date and in accordance with the terms and conditions of this Agreement, and any amendments or modifications thereto approved by City and Developer. For purposes of clarity, the Developer may enter into a contract with separate general contractors for the City Marina Improvements.

2.10 **“Construction Documents”** means the Design Professional’s Contract(s), the Construction Contract, all construction, engineering, architectural or other design professional contracts and subcontracts, all change orders, all government approvals, the Plans and Specifications, and all other drawings, budgets, and agreements relating to the construction of the City Marina Improvements.

2.11 **“Construction Management Fees”** has the meaning ascribed in Section 3.4.

2.12 **“Design Professional”** means engineers, architects, or other professional consultants providing technical advice in accordance with the terms of this Agreement.

2.13 **“Design Professional’s Contract(s)”** means any contracts between Developer and a Design Professional for the design or construction inspection of any portion of the City Marina Improvements, and any amendments or modification thereto.

2.14 **“Disbursement(s)”** means disbursements to Developer of sums equivalent to Developer’s Verified Total Project Costs for the City Marina Improvements as approved by the City pursuant to this Agreement for the design, engineering, permitting, construction and inspection of the City Marina Improvements, not to exceed the Maximum City Marina Improvements Disbursement Amount. The Disbursements will be made at the times and subject to the conditions set forth in this Agreement. No portion of the amounts allocated for the City Marina Improvements as shown in the Budget shall be disbursed to Developer unless such City Marina Improvements comply in all material respects with the Plans and Specifications and description of the City Marina Improvements attached hereto as **Exhibit A** (which may be modified from time to time pursuant to the terms of this Agreement) and the minimum requirements of the Budget for the City Improvements as described in **Exhibit C**, as reasonably determined by the Director of Public Works or his or her designee.

2.15 **“General Contractor”** means the person or entity/s licensed as a general contractor under Florida law, providing construction management of any portion of the City Marina Improvements.

2.16 **“Impermissible Delay”** means, subject to the Force Majeure provisions of Section 11.2, failure to proceed with reasonable diligence with the construction of the City Marina Improvements in the reasonable judgment of the City or DIA, or abandonment of or cessation of work on the City Marina Improvements at any time prior to the Completion of any City Marina Improvements for a period of more than thirty (30) consecutive business days, except in the case of Force Majeure as set forth in Section 11.2, or other casualty which are not the result of Developer’ negligence, or other causes beyond Developer’ control.

2.17 **“Maximum City Marina Improvements Disbursement Amount”** means the maximum disbursement to Developer for the City Marina Improvements as approved by the City of sums equivalent to Developer’ Total Project Costs for the City Marina Improvements for the design and construction of the City Marina Improvements. The Maximum City Marina Improvements Disbursement Amount for the City Marina Improvements shall be the lesser of the Verified Total Project Costs for the City Marina Improvements or \$1,143,807, which funds shall only be applied to the eligible costs of the City Marina Improvements. The Disbursements will be made as provided in this Agreement.

2.18 **“Payment Bond” and Performance Bond”** have the meanings ascribed in Section 7.22.

2.19 **“Plans and Specifications”** means the final plans and specifications, including without limitation all maps, sketches, diagrams, surveys, drawings and lists of materials, for the construction of the City Marina Improvements or any portion thereof, prepared by the Design Professional and approved by the DIA, and any and all modifications thereof made with the written approval of the City and DIA in accordance with this Agreement.

2.20 **“Substantial Completion”** means the satisfaction of the City Marina Improvements Completion Conditions applicable to the City Marina Improvements, as described in Section 7.14. The date of Substantial Completion of the City Marina Improvements is the date upon which all permits have been finalized, a certificate of substantial completion has been issued by the contractor and verified by the architect of record, and the City Marina Improvements are available for use in accordance with their intended purpose; subject to commercially reasonable punch list items and similar items. The one-year warranty as described herein on the City Marina Improvements begins on the Substantial Completion date of the City Marina Improvements.

2.21 **“Total Project Costs”** means the design, pre-construction, and construction costs Developer incurs in connection with the design, engineering, permitting and construction of the City Marina Improvements, including soft costs associated with the design of the City Marina Improvements, preliminary engineering, surveys, geotechnical, environmental and construction testing, removal of unsuitable soils, as itemized in the Budget, as the same may be revised from time to time with the written approval of the City’s Director of Public Works and CEO of the DIA, including, without limitation, any Construction Management Fees or other project management or construction fees of the General Contractor and reasonable contingencies. For purposes of clarity, Total Project Costs shall not include any construction management fees or other project management or construction fees of the Developer.

2.22 **“Verified Total Project Costs”** means the Total Project Costs actually incurred by Developer for Work in place as part of the City Marina Improvements, pursuant to the provisions of this Agreement.

2.23 **“Work”** means workmanship, materials and equipment necessary to this Agreement, and any and all obligations, duties and responsibilities necessary for the successful completion of the City Marina Improvements undertaken by Developer under this Agreement, including the furnishing of all labor, materials, and equipment, and any other construction services related thereto.

### **ARTICLE 3 DISBURSEMENT OF FUNDS BY CITY**

3.1 Terms of Disbursement. Subject to an appropriation of funds therefore, City agrees to reimburse Developer for the Verified Total Project Costs for work performed for the design, engineering, permitting, construction and inspection of the City Marina Improvements on the terms and conditions hereinafter set forth. The disbursement amount shall be in the maximum amount of up to the Maximum City Marina Improvements Disbursement Amount. Developer shall be responsible for all costs of the City Marina Improvements beyond such amount. Should the total Verified Total Project Costs incurred by Developer applicable to the City Marina Improvements amount to a sum less than the Maximum City Marina Improvements Disbursement Amount, City shall only be liable for the actual amount of the Verified Total Project Costs for the City Marina Improvements up to the Maximum City Marina Improvements Disbursement Amount.

3.2 Use of Proceeds. All funding authorized pursuant to this Agreement shall be expended solely for the purpose of reimbursing Developer for the Verified Total Project Costs for



any portion of the City Marina Improvements as authorized by this Agreement and for no other purpose. Upon Substantial Completion of the City Marina Improvements, any excess funds budgeted for the City Marina Improvements will be retained by the City.

3.3 Disbursements Directly to Contractors and Vendors. Notwithstanding anything herein, the City may at its option upon the occurrence and during the continuation of an Event of Default, which is not cured within the applicable cure period after notice, and in accordance with the disbursement procedures described in this Article III, and in Article IV and Article V, disburse directly to the Design Professionals, General Contractor, subcontractors, suppliers, and vendors whom Developer has engaged in connection with the City Marina Improvements, the reasonable amounts charged by such persons, upon submission to the City of invoices, receipts or other documents required by the City showing that the services rendered pertain to the City Marina Improvements and are included in the Total Project Costs. In the event the City makes any direct Disbursement as described in this Section 3.3, the City shall, upon request of Developer, deliver to Developer a complete copy of any Disbursement documentation for Developer' records.

3.4 Construction Management Fees. No development fees or project management fees or other fees of Developer (collectively, the "Project Management Fees") shall be paid to Developer under this Agreement. Nor are any such fees owed to Developer as of the Effective Date. Any construction management fees to be paid to the General Contractor (not to exceed five percent (5%) of the Total Project Costs) ("Construction Management Fees") shall be paid only after all conditions to the Disbursement have otherwise been satisfied, and such fees shall be made pro rata (other than fees for preconstruction work) with the progress of the City Marina Improvements and upon approval of the amount of such fees by the City. All requests for Construction Management Fees must be included in the Disbursement Request as a separate line item, and the aggregate amount of such fees shall be set forth in the General Contractor's contract, which is subject to the City's approval..

3.5 Procedures for Payment. All Disbursements shall be made from time to time as construction progresses upon written application of Developer pursuant to a Disbursement Request in the form attached hereto as **Exhibit E** and as defined in Section 4.1. Subject to Article 5 below and the other terms of this Agreement, Developer shall file Disbursement Requests with the City no more frequently than once per month covering Work performed since the prior Disbursement Request. Each Disbursement Request shall constitute a representation by Developer that the Work done and the materials supplied to the date thereof are in accordance with the Plans and Specifications for the City Marina Improvements; that the Work and materials for which payment is requested have been physically incorporated into the City Marina; that the value is as stated; that the Work and materials conform with all applicable rules and regulations of the public authorities having jurisdiction; that such Disbursement Request is consistent with the then current Budget; that the proceeds of the previous Disbursement have been actually paid by Developer in accordance with the approved Disbursement Request for such previous Disbursement; and that no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

3.6 No Third-Party Beneficiaries. The parties hereto do not intend for the benefits of this Agreement to inure to any third party. Notwithstanding anything contained herein or any conduct or course of conduct by any of the parties hereto, this Agreement shall not be construed

as creating any rights, claims, or causes of action against City, DIA or any of their respective officers, agents, or employees, in favor of any contractor, subcontractor, supplier of labor, materials or services, or any of their respective creditors, or any other person or entity other than Developer.

3.7 Performance Schedule. Developer shall Commence construction of the City Marina Improvements in accordance with the performance schedule set forth in the RDA (the “Performance Schedule”), and such work shall commence at the earliest date possible to minimize disruption to marina services but not later than on or before twelve (12) months following the Commencement of Construction of the Residential Improvements (as such terms are defined in the RDA), and shall be Substantially Complete on or before the Completion Date as defined in the RDA (the “Completion Date”), subject to Force Majeure.

3.8 Progress Reports. During the period of construction of the City Marina Improvements, Developer shall provide to the City on a monthly basis (not later than fifteen (15) days after the close of each calendar month) progress reports of the status of construction of the City Marina Improvements, which shall include: (i) certification by Developer’ engineer of (a) the total dollars spent to date, and (b) the percentage of completion of the City Marina Improvements, as well as the estimates of the remaining cost to complete such construction; and (ii) evidence of full payment of all invoices or draw requests, to include copies of checks for payment and invoice draw requests, submitted for payment as to such portion of the City Marina Improvements during such monthly reporting period. In addition, on a monthly basis, Developer shall provide to the City copies of its internally generated monitoring reports and related documentation as to construction of the portion of the City Marina Improvements within fifteen (15) days after the close of the month.

3.9 No Warranty by City. Nothing contained in this Agreement or any other City Marina Improvements Document shall constitute or create any duty or warranty by City or DIA regarding (a) the accuracy or reasonableness of the Budget or (b) the competence or qualifications of the General Contractor or Design Professional or any other party furnishing labor or materials in connection with the construction of the City Marina Improvements. Developer acknowledges that Developer has not relied and will not rely upon any experience, awareness or expertise of City or DIA regarding the aforesaid matters.

#### **ARTICLE 4 DISBURSEMENT REQUESTS**

4.1 Request for Disbursement; Payment by City. For each Disbursement request, which shall be made no more frequently than monthly, Developer shall submit to the City, at least thirty (30) calendar days prior to the requested date of disbursement, a completed written disbursement request (each, a “Disbursement Request”) in the form as set forth in **Exhibit E** attached hereto. Disbursements shall be made on a work performed and invoiced basis. Each Disbursement Request shall certify in detail, reasonably acceptable to the City, (a) the unit price schedule of values, that includes the cost of the labor that has been performed and the materials that have been incorporated into the City Marina Improvements under construction, and (b) the amount of the Disbursement that Developer is seeking in accordance with the amounts set forth in

the Budget and subject to Section 1.4 above. Each Disbursement Request shall be accompanied by the following supporting data: (i) invoices, waivers of mechanic's and materialmen's liens obtained for payments made by Developer on account of Total Project Costs as of the date of the Disbursement Request, and (ii) AIA Forms G702 and G703 certified by the General Contractor and Design Professional for the completed City Marina Improvements under construction (collectively, the "Supporting Documentation"). The City shall pay to Developer the amount of each Disbursement Request submitted by Developer in accordance with the applicable requirements of this Agreement, within thirty (30) calendar days of the City's receipt of such Disbursement Request, provided, however, that if the City reasonably disputes any portion of the Disbursement Request, the City shall provide written notice to Developer of such dispute within ten (10) business days of the City's receipt of such Disbursement Request. Thereafter, the parties shall negotiate in good faith to resolve such dispute. Notwithstanding the City's rights to dispute a Disbursement Request as set forth herein, in the event of such a dispute, the City shall, within such original fifteen (15) business day period, disburse to Developer the non-disputed portion of the funds requested pursuant to such Disbursement Request. Each Disbursement Request shall be accompanied by a certification by Developer's Design Professional of (a) updated budgets showing the amount of expenditures for the City Marina Improvements to date, (b) the percentage of completion of the City Marina Improvements and (c) estimates of the remaining costs to complete the overall City Marina Improvements. Developer shall also promptly furnish to City such other information concerning the City Marina Improvements as City may from time-to-time reasonably request.

4.2 Inspection. Upon receiving each Disbursement Request, the City will determine in its reasonable discretion (a) whether the Work completed to the date of such Disbursement Request has been done satisfactorily and in accordance with the Plans and Specifications, (b) the percentage of construction of the City Marina Improvements completed as of the date of such Disbursement Request for purposes of determining, among other things, the Total Project Costs actually incurred for Work in place as part of such City Marina Improvements as of the date of such Disbursement Request, (d) the actual sum necessary to complete construction of such City Marina Improvements in accordance with the Plans and Specifications, and (e) the amount of time from the date of such Disbursement Request which will be required to complete construction of such City Marina Improvements in accordance with the Plans and Specifications until such City Marina Improvements are completed. All inspections by or on behalf of the City shall be solely for the benefit of the City, and Developer shall have no right to claim any loss or damage against City or DIA arising from any alleged (i) negligence in or failure to perform such inspections, or (ii) failure to monitor Disbursements or the progress or quality of construction.

4.3 Disbursements. The City shall have no obligation after making Disbursements in a particular manner to continue to make Disbursements in that manner, except that the City shall provide Developer reasonable advance notice of any change in the City's disbursement procedures, and any new disbursement procedures shall be commercially reasonable and in conformance with this Agreement. Notwithstanding the foregoing, the City's records of any Disbursement made pursuant to this Agreement shall, in the absence of manifest error, be deemed correct and acceptable and binding upon Developer.

4.4 No Warranty by City or DIA. Nothing contained in this Agreement or any other Project Document shall constitute or create any duty on or warranty by the City or DIA regarding

(a) the accuracy or reasonableness of the Budget, (b) the proper application by Developer of the Disbursement proceeds, (c) the quality of the City Marina Improvements, or (d) the competence or qualifications of the General Contractor, Design Professional, any other party furnishing labor or materials in connection with the construction of the City Marina Improvements. Developer acknowledges that Developer has not relied and will not rely upon any experience, awareness or expertise of the City or DIA regarding the aforesaid matters.

## **ARTICLE 5 CONDITIONS TO DISBURSEMENTS**

5.1 **General Conditions.** Subject to compliance by Developer with the terms and conditions of this Agreement, the City shall make Disbursements to Developer for Total Project Costs of the City Marina Improvements, up to the Maximum City Marina Improvements Disbursement Amount, with the Developer responsible for all costs in excess thereof; provided, however, that in no event shall the City be obligated to make Disbursements in excess of the sum of the Total Project Costs applicable to such City Marina Improvements. The City will have no obligation to make any Disbursement (a) unless City is satisfied, in its reasonable discretion, that the conditions precedent to the making of such Disbursement have been satisfied; or (b) if an Event of Default has occurred or is continuing (provided, however, that, upon the occurrence of an event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default with respect to Developer's obligations under this Agreement, the City may withhold the Disbursement immediately upon such occurrence and throughout any notice or cure period until such default is cured in accordance with this Agreement, and following the cure of such default shall disburse such withheld portion).

5.2 **Conditions to Initial Disbursement.** The City's obligation hereunder to make the initial Disbursement with respect to the City Marina Improvements is conditioned upon the City's receipt of the following, each in form and substance reasonably satisfactory to the City:

5.2.1 Each of the Project Documents duly executed as necessary to be enforceable against the parties thereto, and that no Event of Default or event which, with the giving notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing under any of the Project Documents.

5.2.2 If City Marina Improvements have been constructed, a satisfactory inspection report with respect to the City Marina Improvements from City or DIA staff, as applicable.

5.2.3 The Supporting Documentation described in Section 4.1 above.

5.3 **Conditions to Subsequent Disbursements.** The City's obligations hereunder to make any subsequent Disbursements with respect to the City Marina Improvements are conditioned upon City's receipt of the following, each in form and substance reasonably satisfactory to the City:

5.3.1 Disbursement Request, together with all required Supporting Documentation;

5.3.2 Except for subsequent disbursements for pre-construction costs, evidence that Developer has obtained all Governmental Approvals or, after construction has commenced, a satisfactory inspection report with respect to the applicable City Marina Improvements from the City, which shall be delivered with the applicable Disbursement Request; and

5.3.3 An updated Budget (showing the amount of money spent or incurred to date on particular items and the remaining costs for the City Marina Improvements under construction).

5.3.4 Additionally, prior to any Disbursement hereunder for the costs of construction of any portion of the City Marina Improvements, the City must be satisfied that all necessary approvals from governmental or quasi-governmental authorities (including without limitation the St. Johns River Water Management District and FDEP) having jurisdiction over the City Marina Improvements, including but not limited to street openings or closings, zonings and use and occupancy permits, sewer permits, stormwater drainage permits, and environmental permits and approvals (the “**Governmental Approvals**”), have been obtained for the applicable City Marina Improvements under construction, and are or will be final, unappealed, and unappealable, and remain in full force and effect without restriction or modification.

5.4 **Conditions to Final Disbursement.** The City’s obligation hereunder to make the final Disbursement with respect to the City Marina Improvements is conditioned upon City’s receipt of all of the following, each in form and substance reasonably satisfactory to the City:

5.4.1 Disbursement Request, together with all required Supporting Documentation.

5.4.2 Evidence that Developer has obtained all Governmental Approvals for the completed City Marina Improvements and a satisfactory inspection report with respect to the City Marina Improvements from the City, which shall be delivered by Developer with the Disbursement Request.

5.4.3 An updated Budget, showing the amount of money spent or incurred to date on all of the City Marina Improvements.

5.5 Additionally, prior to any final Disbursement hereunder for the costs of construction of any City Marina Improvements, the City must be satisfied that all necessary Governmental Approvals have been obtained or will be obtained in due course for the City Marina Improvements, and are or will be final, unappealed, and unappealable, and remain in full force and effect without restriction or modification.

5.5.1 A final as-built survey showing all of the City Marina Improvements and applicable easements in compliance with the requirements of Section 7.10.

5.5.2 Evidence satisfactory to the City that Developer has completed construction of the City Marina Improvements, and each of the items set forth in the City Marina Improvements Completion Conditions set forth in Section 7.14 below.

**ARTICLE 6  
REPRESENTATIONS AND WARRANTIES**

Developer represents and warrants to City that, to its knowledge:

6.1 Authority; Enforceability. (a) The execution and delivery hereof has been approved by all parties whose approval is required under the terms of the governing documents of Developer; (b) this Agreement and any documents executed in connection herewith do not violate any of the terms or conditions of such governing documents and this Agreement is binding upon Developer and enforceable against it in accordance with its terms; (c) the person(s) executing this Agreement on behalf of Developer is (are) duly authorized and fully empowered to execute the same for and on behalf of Developer; and (d) Developer is duly authorized to transact business in the State of Florida and has received all necessary permits and authorizations required by appropriate governmental agencies as a condition to doing business in the State of Florida.

6.2 Survival. All of the representations and warranties of Developer, as set forth in this Agreement, shall survive the making of this Agreement and shall be continuing for a period of one year after the Completion Date as set forth herein.

**ARTICLE 7  
COVENANTS**

7.1 Construction of the City Marina Improvements. Subject to the provisions of Section 11.2 and unless otherwise agreed in writing by City, ongoing physical construction of the City Marina Improvements shall commence by the Commencement Date as established pursuant to Section 2.6 and shall be carried on diligently without delay or interruption for more than thirty (30) consecutive business days.

7.2 Manner of Construction of the City Marina Improvements. The City Marina Improvements shall be constructed in a good and workmanlike manner, in substantial accordance with the applicable Plans and Specifications and in compliance with all state, federal and local laws.

7.3 Plans and Specifications for the City Marina Improvements. Prior to the Commencement of Construction of the City Marina Improvements and prior to entering into any constructions contracts for the same, the City shall have received and approved in its reasonable discretion the Plans and Specifications and Budget (for the purposes of this Article 7, collectively, the “Plans”) prepared by Developer’s design team for the City Marina Improvements. The Plans (i) will comply with all applicable City/state/federal standards, and with provisions of this Agreement, (ii) shall be reviewed by the City and DIA within ten business (10) days of submission in form acceptable to the City, and (iii) shall be subject to the City's and DIA’s approval. Developer shall use the approved Plans and Specifications to solicit bids and/or proposals for the construction of such City Marina Improvements. The City shall be given the opportunity to review all bids and approve the final award in its reasonable discretion. City representatives shall have access to any portion of the City Marina Improvements during construction to confirm such City Marina Improvements are constructed consistent with the approved Plans.

7.4 Pre-Construction Surveys. On or before the Commencement Date, Developer shall deliver to the City surveys (meeting Florida minimum technical standards) and legal descriptions, which will cover such City Marina Improvements as well as the location of utility and drainage easements and utility sites. The form and content of the surveys and legal descriptions shall be reasonably satisfactory to City which shall indicate their approval in writing after approving of such form and content in accordance with their respective standard practices.

7.5 Developer Responsibilities; Dedication of City Marina Improvements. After the Effective Date, Developer shall be responsible for overseeing the design, permitting and construction of the City Marina Improvements under the terms and conditions of this Agreement. Upon Substantial Completion of the City Marina Improvements, Developer is responsible for overseeing the acceptance of such City Marina Improvements to and by the City, which shall take title to all of the City Marina Improvements.

7.6 Award of Design Professional's Contract(s) and Construction Contract(s).

7.6.1 Developer shall be responsible for competitively and publicly soliciting professional services, including design and engineering professionals and to conduct the Work in compliance with Section 287.055, Florida Statutes, as applicable, and otherwise in compliance with applicable State of Florida law and this Agreement, and in consultation with the City Procurement Department. Competitive solicitation of all professional services, construction services, and/or other equipment and materials for the construction of the City Marina Improvements shall be in compliance with Section 287.055, and Section 255.20, Florida Statutes, as applicable. All potential bidders shall be prequalified to do business with the City pursuant to the requirements and procedures set forth by the Chief of Procurement and the Ordinance Code of the City of Jacksonville. To the extent competitive solicitation is required for the City Marina Improvements, the bidder or bidders selected by Developer in its final award may or may not have submitted the absolute lowest bid; provided, however, that prior to the actual bid award to any bidder other than the lowest bidder, the City shall be given the opportunity to review and approve the bid analysis and award procedures utilized in Developer's final award. City shall have the right to review the bid analysis and award procedures and subject to such bid and award procedures being in compliance with Florida law. All planning, design and construction services shall be conducted by design professionals, construction companies and/or equipment and material suppliers licensed or certified to conduct business in the State of Florida and the City. Nothing herein shall be deemed to (1) confer any rights on third parties, including any bidders, prospective bidders, contractors or subcontractors, or (2) impose any obligations or liability on the City. Notwithstanding anything to the contrary herein, the bidding and contract award procedures for the City Marina Improvements must comply with the procurement requirements of Florida law for public construction projects, including but not limited to Section 287.055, Florida Statutes. City shall reasonably cooperate, in its proprietary and not regulatory capacity, and at no cost to City, with Developer in Developer's efforts to procure and maintain all permits, licenses and approvals necessary to fulfill its obligations under this Agreement.

7.6.2 After awarding the Construction Contract for any portion of the City Marina Improvements, Developer shall in a timely manner notify the General Contractor to proceed with the Work of constructing such portion of the City Marina Improvements. No notice

to proceed shall be given until, and the parties' obligations hereunder shall be conditioned upon, satisfaction of the following conditions:

(a) The City shall have received evidence reasonably satisfactory to it that the cost of the City Marina Improvements to be constructed will not exceed the amount set forth in the Budget, and that such City Marina Improvements will be completed by the Completion Date, subject to Force Majeure;

(b) Developer shall provide to the City payment and performance bonds in form and content acceptable to the City in accordance with this Agreement as set forth in Section 7.22 below;

(c) The City shall have received such assurances as may reasonably be required that all necessary permits and other governmental requirements for construction of the City Marina Improvements have been received and satisfied or can be received and satisfied in due course.

7.6.3 Developer, the Design Professionals and General Contractor, in consideration of the fees set forth in the Budget, shall perform construction contract management, including obtaining of required testing and inspecting the Work and rendering periodic reports to the City on the progress of the City Marina Improvements in compliance with procedures reasonably satisfactory to the City. The City shall be entitled to review and approve the General Contractor's (or construction manager's) draw requests as set forth herein (to be submitted in a City approved format).

7.7 Prosecution of Work. Developer, the Design Professionals and General Contractor, in consideration of the fees set forth in the Budget, shall perform construction contract management, including obtaining of required testing, inspecting the Work and rendering monthly reports to City on the progress of the City Marina Improvements if requested by City. Developer shall work diligently to complete construction of the City Marina Improvements in a timely and reasonable manner.

7.8 Liens and Lien Waivers. Developer shall take all action necessary to have any mechanic's and materialmen's liens, judgment liens or other liens or encumbrances related to the City Marina Improvements released or transferred to bond within ten business (10) days of the date Developer receives notice of the filing of such lines or encumbrances. Neither the City nor the DIA shall be responsible for any lien or encumbrance related to the City Marina Improvements but City shall work cooperatively with Developer for Developer to bond over or remove any such lien or encumbrance. Developer shall be responsible for assuring compliance in all respects whatsoever with the applicable mechanic's and materialmen's lien laws.

7.9 As-Built and Other Surveys. Developer shall deliver to City, in compliance with City's survey requirements, an as-built survey of the City Marina Improvements within sixty (60) after Substantial Completion of construction thereof.

7.10 Compliance with Laws and Restrictions. All construction of any portion of the City Marina Improvements shall be performed in accordance with all applicable statutes, ordinances, codes, regulations and restrictions. All contractors, subcontractors, mechanics or laborers or other



persons providing labor or material in construction of any portion of the City Marina Improvements shall have or be covered by worker's compensation insurance, if required by applicable law.

7.11 Ownership of Construction Documents. As security for the obligations of Developer under this Agreement, Developer hereby grants, transfers and assigns to City all of Developer's right, title, interest (free of any security interests of third parties) and benefits in or under the Construction Documents, including any copyrights thereto. Developer represents and warrants that it has permission and authority to convey ownership of the Construction Documents as set forth herein.

7.12 Intentionally Omitted.

7.13 Authority of City/DIA to Monitor Compliance. During all periods of design and construction, Developer shall permit the City's Director of Public Works, Director of Parks, Recreation and Community Services, or their respective designated personnel, to monitor compliance by Developer with the provisions of this Agreement, the Construction Documents and the City Marina Improvements Documents. During the period of construction and with prior notice to Developer, representatives of City shall have the right of access to Developer's records and employees, as they relate to City Marina Improvements, during normal business hours, provided, however, that Developer shall have the right to have a representative of Developer present during any such inspection.

7.14 Completion of the City Marina Improvements. Subject to the terms of this Agreement and to the Force Majeure provisions of Section 11.2, Developer shall Complete Construction of the City Marina Improvements by no later than the Completion Date. For purposes of this Agreement, completion of the City Marina Improvements shall be deemed to have occurred only when the following conditions (the "City Marina Improvements Completion Conditions") shall have been satisfied:

7.14.1 Upon Completion of the City Marina Improvements, Developer shall submit to City a proper contractor's final affidavit and releases of liens from each contractor, subcontractor and supplier, or other proof satisfactory to City, confirming that payment has been made for all materials supplied and labor furnished in connection with such City Marina Improvements through the date of Substantial Completion reflected in the Disbursement Request;

7.14.2 The City Marina Improvements shall have been Substantially Completed in all material respects in substantial accordance with the applicable Plans and Specifications, as verified by a final inspection report satisfactory to City from Developer's construction inspector, certifying that the City Marina Improvements have been constructed in a good and workmanlike manner and are in satisfactory condition and are ready for immediate use;

7.14.3 Developer shall cause the General Contractor to provide a one-year warranty on the City Marina Improvements, with said warranty commencing on Substantial Completion and acceptance by the City of the City Marina Improvements.

7.15 Change Orders. In connection with any portion of the City Marina Improvements, no material amendment shall be made to the Plans and Specifications, the Design Professional's

Contract(s) or the Construction Contract, nor shall any material change orders be made thereunder, without the prior written consent of the City and DIA in their reasonable discretion. Developer shall notify the City in writing of any requested material changed condition/change order, which shall describe the changed scope of work, all related costs, and any necessary delay in the Completion Date ("Developer Change Order Request"). Within five (5) business days after receipt of a Developer Change Order Request, the City will determine if the Developer Change Order Request is justified and will respond to Developer in writing as to whether or not the City and DIA approve the Developer Change Order Request and whether the City and DIA are willing to authorize any associated delay in the Completion Date set forth therein. If the City and DIA do not approve the Developer Change Order Request, the City and DIA will have an additional ten (10) business days to evaluate and respond to Developer in writing. Once a Developer Change Order Request has been agreed upon by Developer, City and DIA, a formal Change Order, describing the agreed scope of work, and applicable extension of the Completion Date, will be executed by both parties within ten (10) business days ("Approved Change Order"). The parties acknowledge that the Work that is the subject of a Developer Change Order Request will not proceed during the City/DIA change order response period, but other Work that will not affect or be affected by the Work that is the subject of a Developer Change Order Request will not be stopped during the City/DIA change order response period. Notwithstanding anything herein, any increased costs in excess of the Maximum Disbursement Amount for the City Marina Improvements resulting from any and all Approved Change Orders during the construction of the City Marina Improvements shall be the responsibility of Developer. For the purposes of this Section 7.15, "material" amendment to the Plans and Specifications, the Design Professional's Contract(s) or the Construction Contract and a "material" change order is defined as an amendment or change order with related costs in excess of \$10,000 and/or that substantially change the scope of the City Marina Improvements or shall cause delays in the Completion Date.

7.16 Subcontractors. Developer agrees that it will not engage or permit the General Contractor to engage or continue to employ any contractor, subcontractor or materialman who may be objectionable to the City in its reasonable discretion. If requested by City, Developer shall deliver to City a fully executed copy of each of the agreements between the General Contractor and its subcontractors, as and to the extent the General Contractor delivers such contracts to Developer.

7.17 Discrimination. Developer shall not discriminate against any person, or group of persons on account of race, color, creed, sex, age, religion, national origin, marital status, handicap, having children or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of all or any part of the City Marina Improvements nor shall Developer or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with the reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessees or vendees thereof.

7.18 Indemnification. Developer shall indemnify the City, the DIA and their respective employees, agents, representatives, successors, assigns, contractors and subcontractors (collectively "Indemnified Parties") against and from all liabilities, damages, losses, costs, and expenses of whatsoever kind or nature, including, but not limited to, reasonable attorney's fees, reasonable expert witness fees and court costs (all of which are collectively referred to as "Damages"), arising out of or in connection with any negligent act or omission or willful

misconduct of Developer, the General Contractor or any of their respective employees, contractors, agents or representatives (collectively, the “Developer Parties”) in connection with the Developer Parties’ construction of the City Marina Improvements, which Damages are not paid or reimbursed by or through the Payment and Performance Bond or Insurance as required under this Agreement and excluding any Damages to the extent such Damages arise out of or are caused by the willful misconduct or gross negligence of the Indemnified Parties. The term “Indemnified Parties” as used in this Section shall include the DIA, the City, and all officers, board members, DIA Board members, City Council members, employees, representatives, agents, successors and assigns of DIA or the City. Nothing contained in this paragraph shall be construed as a waiver, expansion or alteration of the City’s sovereign immunity beyond the limitations stated in Section 768.28, Florida Statutes. This Section 7.18 shall survive the expiration, earlier termination or completion of this Agreement for a period of five (5) years.

7.19 Insurance and Bond Requirements. See Exhibit G attached hereto and incorporated herein by this reference for the insurance and bond requirements of the General Contractor.

7.20 Materials and Workmanship. All workmanship, equipment, materials and articles incorporated in the Work are to be new and in accordance with City’s Standards, Specification and Details to be provided by City. Developer shall furnish the City with certified copies of test results made of the materials or articles which are to be incorporated in the Work for approval. When so directed, samples of materials shall be submitted for approval. Machinery, equipment, materials and articles installed or used without such approval shall be at the risk of subsequent rejection, removal and replacement at Developer’ expense. If not otherwise provided, material or Work called for in this Agreement shall be furnished and performed in accordance with the manufacturer’s instructions and established practice and standards recognized by architects, engineers and the trade.

7.21 Warranty and Guarantee of Work.

7.21.1 Developer warrants to the City that all Work will be of good quality, and substantially in compliance with this Agreement and in accordance with the provisions of Section 7.20. All Work not in conformance to the requirements of this Agreement, including substitutions not properly approved and authorized, may be considered defective. If required by City, Developer shall provide satisfactory evidence as to the quality, type and kind of equipment and materials furnished. This warranty is not limited by, nor limits any other warranty-related provision in this Agreement.

7.21.2 If, within one year of acceptance of the City Marina Improvements by City, or within such longer period of time prescribed by law or by the terms of any special warranty provision of this Agreement (the “Warranty Period”), any of the Work is found to be defective or not in conformance with this Agreement, Developer shall cause the General Contractor to correct it promptly after notice of such defect or nonconformance. Corrective Work during the warranty period shall also be warranted for a period of one year, with each corrective effort in turn being warranted for a period of one year of satisfactory performance. This obligation shall survive termination, expiration or completion of the Agreement. City shall give notice to Developer promptly after discovery of the condition.

7.21.3 During the Warranty Period, Developer shall bear the cost of correcting or removing all defective or nonconforming Work, including the cost for correcting any damage caused to equipment, materials or other Work by such defect or the correcting thereof.

7.21.4 During the Warranty Period, Developer shall correct any defective or nonconforming Work to the reasonable satisfaction of City, and any of the Work, equipment or materials damaged as a result of such condition or the correcting of such condition, within thirty (30) calendar days of notice of such condition (provided, however, that, if such defective or nonconforming Work cannot be corrected within thirty (30) calendar days, Developer shall have such additional time needed to correct such Work so long as the Developer has commenced and is diligently pursuing such corrections within such thirty (30) day period and diligently pursues such correction to a conclusion). Should Developer fail to timely correct defective or non-conforming Work under warranty, City, or a third party contractor on behalf of City, may correct such Work itself and Developer shall reimburse City for the actual out-of-pocket costs of such corrective Work promptly and no later than thirty (30) days after receipt of an invoice from City pertaining to such corrective Work undertaken by City. If Developer fails to correct the nonconforming or defective Work, Developer will be in default hereunder.

7.21.5 Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Developer may have under this Agreement. The establishment of the time period of one year after the date of Substantial Completion, or such longer period of time as may be prescribed by law or by the items of any warranty required by this Agreement, relates only to the specific obligation of Developer to correct the Work and has no relationship to the time within which its obligation to comply with this Agreement may be sought to be enforced, nor the time within which proceedings may be commenced to establish Developer's liability with respect to its obligations other than specifically to correct the Work.

## 7.22 Payment and Performance Bonds.

7.22.1 Developer shall cause the General Contractor to furnish performance and payment bonds consistent with the requirements of Section 255.05, Florida Statutes (the "Payment and Performance Bonds"), as security for its faithful performance under this Agreement. The Performance and Payment Bonds shall be in an amount at least equal to the amount of the Total Project Costs for the construction of the City Marina Improvements. The Payment and Performance Bonds shall be in a form acceptable to the City, and with a surety that is acceptable to the City's Division of Insurance and Risk Management. The cost thereof shall be included in the applicable Budget.

7.22.2 The Payment and Performance Bonds for the City Marina Improvements shall accompany the Budget and Plans and Specifications submitted to the City for approval. The Performance and Payment Bonds shall be recorded and delivered prior to Commencement of the City Marina Improvements.

7.22.3 If any surety upon any bond furnished in connection with this Agreement becomes unacceptable to the City, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by the City, Developer shall, at its own expense, use commercially reasonable efforts to furnish such additional security as may be required from time

to time to protect the interests of the City and of persons supplying labor or materials in the prosecution of the Work contemplated by this Agreement and as permitted in the Budget.

7.23 Jacksonville Small and Emerging Businesses (JSEB) Program.

Developer, in further recognition of and consideration for the public funds provided to assist Developer pursuant to this Agreement, hereby acknowledges the importance of affording to small and emerging vendors and contractors the full and reasonable opportunity to provide materials and services (“Opportunity”). Therefore, Developer hereby agrees as follows:

7.23.1 Developer shall obtain from City’s Procurement Division the list of certified Jacksonville Small and Emerging Businesses (“JSEB”), and shall, in accordance with Jacksonville Ordinance Code (“Code”) Sections 126.601 et seq., use good faith efforts to enter into contracts with City certified JSEBs to provide materials or services in an aggregate amount of twenty percent (20%) of the total Verified Total Project Costs of the construction of the City Marina Improvements or the Maximum City Marina Improvements Disbursement Amount, whichever is less, provided such JSEBs are determined by Developer to be qualified and experienced in the design and construction of the City Marina Improvements.

7.23.2 Developer shall submit a JSEB report regarding Developer’ actual use of City certified JSEBs for design, engineering, permitting, construction and inspection of the City Marina Improvements. A JSEB report shall be submitted on a quarterly basis until Substantial Completion of Construction of the City Marina Improvements. The form of the report to be used for the purposes of this Section is attached hereto as **Exhibit H** (the “JSEB Reporting Form”).

7.24 Indemnification by Contractors. Developer agrees to include the indemnification provisions set forth in **Exhibit I**, attached hereto and incorporated herein, in all contracts with contractors, subcontractors, consultants, and subconsultants who perform work in connection with this Agreement.

**ARTICLE 8  
NO ASSIGNMENT OR CONVEYANCE;  
RESTRICTIONS ON ENCUMBRANCE**

8.1 Assignment; Limitation on Conveyance. Developer agrees that it shall not, without the prior written consent of City and DIA (except for assignment to affiliates of Developer of which Developer has a managing interest) assign, transfer or convey this Agreement or the City Marina Improvements Documents or any provision hereof or thereof. The provisions of this section shall not apply to any assignment, transfer or conveyance as collateral or to the sale or conveyance to the holder of any mortgage encumbering all or any portion of Developer’ property. Any such sale, assignment or conveyance in violation of this section shall constitute a default hereunder, and City may continue to look to Developer to enforce all of the terms and conditions of this Agreement as if such purported sale, assignment or conveyance had not occurred. Any authorized assignment hereunder shall be pursuant to an assignment and assumption agreement in form and content acceptable to the City and DIA in their reasonable discretion.

**ARTICLE 9  
EVENTS OF DEFAULT AND REMEDIES**

9.1 **Event of Default.** The following shall constitute an event of default (each, an “Event of Default”) hereunder:

9.1.1 A breach by any party of any other term, covenant, condition, obligation or agreement under this Agreement, and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to such party, provided, however, that if such breach is not reasonably susceptible to cure within thirty (30) days, then the time to cure such breach shall be extended to ninety (90) days so long as the defaulting party is diligently and in good faith pursuing such cure;

9.1.2 Any representation or warranty made by any party in this Agreement or the City Marina Improvements Documents shall prove to be false, incorrect or misleading in any material respect as of the Effective Date, which is not cured as provided in Section 9.1.1;

9.1.3 A continuing default after any applicable cure period under the City Marina Improvements Documents;

9.1.4 The termination of, or default under, the Construction Contract by Developer or the General Contractor, provided, however, that in the event the Construction Contract is terminated, Developer shall have up to ninety (90) days in which to enter into a replacement Construction Contract, on such terms and with such other General Contractor as shall be reasonably acceptable to City;

9.1.5 Failure of Developer to complete the City Marina Improvements in accordance with the Plans and Specifications which, in the reasonable judgment of the City Director of Public Works, results in a City Marina Improvements which will not adequately serve the City;

9.1.6 Failure of Developer to Complete Construction of the City Marina Improvements, or abandonment of or cessation of Work on any portion of the City Marina Improvements at any time prior to completion for a period of more than thirty (30) consecutive business days, except on account of Force Majeure, in which case such period shall be the lesser of the actual period of delay or ninety (90) consecutive days;

9.1.7 The entry of a decree or order by a court having jurisdiction in the premises adjudging the defaulting party bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the such party under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of such party or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuation of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days; or

9.1.8 The institution by any party of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it to the institution of bankruptcy or insolvency proceedings against it, or the filing of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the

filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of such party of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

9.2 Disbursements. Upon or at any time after the occurrence of an Event of Default, subject to the notice and cure requirements set forth in Section 9.1.1, the City may refuse to make the Disbursement and terminate City's commitment to make any portion of the Disbursement hereunder, except for Verified Total Project Costs for work actually performed prior to the date giving rise to the Event of Default.

9.2.1 In the event Developer' action giving rise to an Event of Default pertains to any failure by Developer to commence with or complete construction of the City Marina Improvements within the time periods required herein, the City shall be entitled (but not obligated) to (i) complete the applicable the City Marina Improvements, and (ii) terminate the City's obligation to pay for any other City Marina Improvements costs hereunder. Developer shall remain obligated to the City for any amounts owed by Developer hereunder as a result of such default.

(a) Provided however, if the Event of Default and failure of Developer to cure described above is caused by unforeseen events, Force Majeure (as set forth in Section 11.2) or third party actions which are outside the control of Developer, then in such event the City shall meet with Developer to consider alternative resolutions and shall use reasonable efforts and reasonably cooperate with Developer to reach a mutually acceptable amendment to this Agreement.

(b) In the event that the Event of Default and failure of Developer to cure is caused by Developer' acts or omissions, then upon termination the City may use an alternative general contractor or development manager selected in its sole discretion provided however such general contractor or development manager shall complete the City Marina Improvements in accordance with the terms and conditions of this Agreement and all Exhibits hereto.

9.2.2 Developer agrees that an Event of Default under this Agreement shall constitute a default under the Project Documents as to which no additional notice or right to cure shall apply.

9.2.3 Notwithstanding anything herein, upon any breach by the City or DIA hereunder, Developer's maximum damages hereunder (including prejudgment interest) shall be limited to the undisbursed Total Project Costs required for the completion of the construction of the City Marina Improvements previously Commenced and then under construction in accordance with this Agreement. Any such damages amount will be used by Developer only for the construction of the City Marina Improvements then under construction in accordance with the costs in the Budget and pursuant to the Plans and Specifications, and shall be disbursed periodically in partial amounts by the City pursuant to the Disbursement terms and conditions of this Agreement so that a particular Disbursement will only be made after receipt by the City of a

Disbursement Request and the completion by Developer of the portion City Marina Improvements to which such Disbursement Request applies.

## **ARTICLE 10 ENVIRONMENTAL MATTERS**

10.1 Environmental Laws. “Environmental Laws” or “Environmental Law” shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste-water, storm water runoff, retention ponds, storm water systems, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, regulations, orders, decrees, permits, licenses and deed restrictions (including but not limited to the Gefen Park deed restriction) now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) (“CERCLA”); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) (“RCRA”); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendments and Reauthorization Act (42 U.S.C. Section 11001 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); (xv) Chapter 62-780, Florida Administrative Code (FAC) Contaminated Site Cleanup Criteria; and (xvi) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 et seq.).

10.2 Hazardous Materials. “Hazardous Materials” means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include: (a) “Hazardous Substance(s)” as defined in CERCLA, the Superfund Amendments and Reauthorization Act of 1986, or Title III of the Superfund Amendments and Reauthorization Act, each as amended, and regulations promulgated thereunder including, but not limited to, asbestos or any substance containing asbestos, polychlorinated biphenyls, any explosives, radioactive materials, chemicals known or suspected to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions, infectious wastes; (b) any petroleum or petroleum-derived waste or product or related materials, and any items defined as hazardous, special or toxic materials, substances or waste; (c) “Hazardous Waste” as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder; (d) “Materials” as defined as “Hazardous Materials” in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder; (e) “Chemical Substance” or “Mixture” as defined in the Toxic



Substances Control Act, as amended, and regulations promulgated thereunder; and (f) mold, microbial growth, moisture impacted building material, lead-based paint or lead-containing coatings, components, materials, or debris, and self-illuminated tritium containing structures, including but not limited to tritium containing exit signs.

10.3 Release of Liability. In the event that Hazardous Materials are discovered within the City Marina Improvements Area that affect the construction of the City Marina Improvements, any increased cost for such work shall be the responsibility of the City. In the event the Florida Department of Environmental Protection or other governmental entity having jurisdiction regarding Hazardous Materials compels remediation work to be undertaken within the City Marina Improvements Area, as between Developer and the City, such work in excess of the Maximum City Marina Improvements Disbursement Amount will be the responsibility of the City except as described in Section 10.4 of this Agreement. In the event Developer handles Hazardous Materials attendant to construction of the City Marina Improvements, it shall do so in compliance with all applicable Environmental Laws and shall be responsible for the health and safety of its workers in handling these materials.

10.4 Developer Release of Hazardous Materials. Developer shall be responsible for any new release of Hazardous Materials within the City Marina Improvements Area directly caused by the actions of Developer occurring after the Effective Date of this Agreement (“New Release”). For purposes of clarity, any migration of Hazardous Materials within, into or out of the City Marina Improvements Area shall not constitute a New Release caused by Developer, provided, however, the Developer shall be responsible to the extent of any increased liability or financial costs incurred by the City for the spreading, worsening, or exacerbation of a release if directly caused by the negligence, recklessness or intentional wrongful conduct of Developer. Developer shall indemnify and hold the City and its members, officials, officers, employees, and agents harmless from and against any and all claims, costs, damages, or other liability, incurred by the City in connection with New Releases or the spreading, worsening, or exacerbation of a release directly caused by the Developer to the extent of and due to Developer's negligence, recklessness, or intentional wrongful misconduct. Notwithstanding anything to the contrary contained herein, Developer shall not have any liability for any New Release caused by a third-party, except for any contractors or subcontractors performing work in connection with this Agreement.

## **ARTICLE 11 GENERAL PROVISIONS**

11.1 Non-Liability. No member, official or employee of City shall be personally liable to Developer or to any person with whom Developer shall have entered into any contract, or to any other person in the event of any default or breach of City or for any amount which may become due to Developer or any other person under the terms of this Agreement.

No director, officer or employee of Developer shall be personally liable to City or to any person with whom City shall have entered into any contract, or to any other person in the event of any default or breach of Developer, or for any amount which may become due to City or any other person under the terms of this Agreement.

11.2 Force Majeure. No party to this Agreement shall be deemed in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, enemy action, civil disturbance, strikes, lockouts, riots, floods, earthquakes, fires, named tropical storms or hurricanes, casualty, declared state of emergency, acts of God, acts of public enemy, acts of terrorism, epidemic, pandemic, quarantine restrictions, freight embargo, shortage of or inability to obtain labor or materials, interruption of utilities service, lack of transportation, severe weather and other acts or failures beyond the control or without the control of any party (collectively, a “Force Majeure Event”); provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay. A party affected by a Force Majeure Event (the “Affected Party”) shall immediately notify the other party (“Non-Affected Party”) in writing of the event, giving sufficient details thereof and the likely duration of the delay. The Affected Party shall use all commercially reasonable efforts to recommence performance of its obligations under this Agreement as soon as reasonably possible. In no event shall any of the foregoing excuse any financial liability of a party.

11.3 Notices. All notices to be given hereunder shall be in writing and (a) personally delivered, (b) sent by registered or certified mail, return receipt requested, or (c) delivered by an air courier service utilizing return receipts, to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent), and such notices shall be deemed given and received for all purposes under this Agreement three (3) business days after the date same are deposited in the United States mail, if sent by registered or certified mail, or the date actually received if sent by personal delivery or air courier service, except that notice of a change in address shall be effective only upon receipt.

11.3.1 DIA and City:

Department of Parks, Recreation and Community Services  
214 N. Hogan Street, Suite \_\_\_\_  
Jacksonville, FL 32202  
Attn: \_\_\_\_\_

Downtown Investment Authority  
117 W. Duval St., Suite 300  
Jacksonville, FL 32202  
Attn: \_\_\_\_\_

With a copy to:

General Counsel  
Office of the General Counsel  
City Hall – St. James Building  
117 West Duval Street, Suite 480  
Jacksonville, FL 32202

11.3.2 Developer:

RD River City Brewery, LLC

2850 Tigertail Avenue, Suite 800  
Miami, FL 33133  
Attn: Steve Patterson  
Email: [spatterson@relatedroup.com](mailto:spatterson@relatedroup.com)

With a copy to:

Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attn: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

11.4 Time is of the Essence. Time is of the essence in the performance by any party of its obligations hereunder.

11.5 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

11.6 Amendment. No amendment or modification of this Agreement shall be effective or binding upon any party hereto unless such amendment or modification is in writing, signed by an authorized officer of the party claimed to be bound and delivered to the other party.

11.7 Waivers. All waivers, amendments or modifications of this Agreement must be in writing and signed by all parties. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, or any other rights or remedies for the same default or any other default by the other party.

11.8 Severability. The invalidity, illegality or inability to enforce any one or more of the provisions of this Agreement shall not affect any other provisions of this Agreement, but this Agreement will be construed as if such invalid illegal or unenforceable provision had never been contained herein.

11.9 Independent Contractor. In the performance of this Agreement, Developer will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or association of City. Developer and its employees or agents or contractors shall be solely responsible for the means, method, technique, sequences and procedures utilized by Developer in performance of this Agreement.

11.10 Exemption of City/DIA. Neither this Agreement nor the obligations imposed upon City or DIA hereunder shall be or constitute an indebtedness of City or DIA within the meaning

of any constitutional, statutory or charter provisions requiring City or DIA to levy ad valorem taxes nor a lien upon any properties of City.

11.11 Parties to Agreement. This is an agreement solely between City, DIA and Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto other than and the permitted successors or assigns of City, DIA and Developer. This Agreement shall be binding upon Developer, and Developer's successors and assigns, and shall inure to the benefit of City, DIA and their respective successors and assigns; provided, however, Developer shall not assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith, except in accordance with the terms and conditions of Section 8.1 above.

11.12 Venue: Applicable Law; Attorneys' Fees. Venue for the purposes of any and all legal actions arising out of or related to this Agreement shall lie solely and exclusively in the Circuit Court of Duval County, Florida, or in the U.S. District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement. Each party shall be responsible for its own attorneys' fees and costs related to this Agreement and the City Marina Improvements Documents.

11.13 Contract Administration. The City's Director of Public Works, or his respective designees, shall act as the designated representatives of the City to coordinate communications between the City and Developer regarding the administration of this Agreement and to otherwise coordinate and facilitate the performance of the obligations of the City under this Agreement.

11.14 Further Authorizations. The Mayor, or his designee, and the Corporation Secretary, are authorized to execute any and all contracts and documents and otherwise take all necessary or appropriate actions in connection with this Agreement, and to negotiate and execute all necessary and appropriate changes and amendments and supplements to this Agreement and other contracts and documents in furtherance of the City Marina Improvements, without further City Council action, provided any such changes and amendments are limited to "technical amendments" and do not change the total financial commitments or the performance schedule, and further provided that all such amendments and changes shall be subject to legal review by the Office of General Counsel and by all other appropriate official action required by law. The term "technical amendments" as used herein includes, without limitation, changes in legal descriptions and surveys, description of infrastructure and/or City Marina Improvements, ingress and egress and utility easements and rights of way, design standards, vehicle access and site plans, to the extent the same have no material financial impact, and to the extent that the Office of General Counsel concurs that no further City Council action would be required to effect such technical amendment.

11.15 Civil Rights. Developer agrees to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the Code, and further agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin.

11.16 Further Assurances. Developer will, upon the City's request: (a) promptly correct any defect, error or omission in this Agreement or any of the City Marina Improvements

Documents; (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts deemed necessary, desirable or proper by the City to carry out the purposes of such City Marina Improvements Documents and to identify (subject to the liens of the City Marina Improvements Documents) any property intended to be covered thereby, including any renewals, additions, substitutions, replacements, or appurtenances to the subject property; (c) execute, acknowledge, deliver, procure, file or record any documents or instruments deemed necessary, desirable or proper by City or DIA to protect the liens or the security interest under the City Marina Improvements Documents against the right or interests of third persons; and (d) provide such certificates, documents, reports, information, affidavits or other instruments and do such further acts deemed necessary, desirable or proper by City to carry out the purposes of the City Marina Improvements Documents.

11.17 Exhibits. In the event of a conflict between any provisions of this Agreement and any exhibit attached to or referenced in this Agreement, the provisions of this Agreement shall govern.

11.18 Construction. All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Developer further acknowledges that it has had ample time to review this Agreement and related documents with counsel of choice. Any doubtful or ambiguous provisions contained herein shall not be construed against the party who drafted this Agreement. Captions and headings in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

11.19 Counterparts. This Agreement may be executed in counterparts, which when later combined shall constitute one and the same document as if originally executed together. Electronic, scanned or faxed signatures shall suffice as original signatures, and the parties may exchange executed counterparts by fax or email, which shall be valid for all purposes.

11.20 Limitations on Governmental Liability. Nothing in this Agreement shall be deemed as a waiver of the City's sovereign immunity or the limits of liability as set forth in Section 768.28, Florida Statutes or other law, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

11.21 Estoppel Certificate. Within ten (10) business days after request therefor from either Developer, or from the City or DIA to the Developer, the Developer, City and DIA, as applicable, agree to execute and deliver to the applicable parties, or to such other addressee or addressees as a Developer or City or DIA may designate (and any such addressee may rely thereon), a statement in writing certifying (if true) that this Agreement as it relates to the Project is in full force and effect and unmodified or describing any modifications; that the Developer (or City or DIA, as applicable) has performed all of its obligations under this Agreement arising prior to the date of the certificate, and making such other true representations as may be reasonably requested by Developer or City or DIA, as applicable.

11.22 WAIVER OF JURY TRIAL. CITY, DIA AND DEVELOPER HEREBY VOLUNTARILY, KNOWINGLY, AND INTENTIONALLY WAIVE ANY AND ALL RIGHTS

TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

**IN WITNESS WHEREOF**, the parties have executed and delivered this Agreement, to be effective on the Effective Date.

ATTEST:

**CITY OF JACKSONVILLE**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

By: \_\_\_\_\_  
Lenny Curry, Mayor

**DOWNTOWN INVESTMENT AUTHORITY**

By: \_\_\_\_\_  
Lori N. Boyer  
Chief Executive Officer

Form Approved:

\_\_\_\_\_  
Office of General Counsel

IN COMPLIANCE WITH the Ordinance Code of the City of Jacksonville, I do hereby certify that there is or will be an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement in accordance with the terms and conditions thereof and that provision has been made for the payment of monies provided therein to be paid.

\_\_\_\_\_  
Director of Finance

Signed, sealed and delivered  
in the presence of:

**RD RIVER CITY BREWERY, LLC**, a  
Florida limited liability company

\_\_\_\_\_  
(Printed Name) \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name) \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

GC-#1417575-v10-Exhibit\_M\_-\_RD\_River\_City\_Brewery\_(Related\_Maritime)\_Disbursement\_Agreement\_-\_Riverwalk\_and\_Marina.docx

**LIST OF EXHIBITS**

EXHIBIT A	Description of City Marina Improvements/Plans and Specifications
EXHIBIT B	City Marina Improvements Area
EXHIBIT C	Budget for City Marina Improvements
EXHIBIT D	Omitted
EXHIBIT E	Disbursement Request Forms
EXHIBIT F	Omitted
EXHIBIT G	Insurance and Bond Requirements
EXHIBIT H	JSEB Reporting Form
EXHIBIT I	Indemnification Requirements of Contractors



**EXHIBIT A**

Description of City Marina Improvements

**EXHIBIT B**

City Marina Improvements Area

**EXHIBIT C**

City Marina Improvements Budget Estimate

**EXHIBIT D**

Omitted

**EXHIBIT E**

**Disbursement Request Form**

Name: \_\_\_\_\_ Request/Draw Number: \_\_\_\_\_  
 Address: \_\_\_\_\_ Document Number: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Date Submitted: \_\_\_\_\_  
 Tax ID #: \_\_\_\_\_

1.	Amount of this request:	\$ _____
2.	Funds received to date:	\$ _____
3.	Funds disbursed to date:	\$ _____
4.	Funds previously requested but not yet received:	\$ _____

**Disbursements will be provided based on Verified Total Project Costs of the City Marina Improvements.**

**GRANTEE PAYMENT REQUEST**

Project \_\_\_\_\_ Payment # \_\_\_\_\_ = 100 % Complete  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Total Project Cost: \$ \_\_\_\_\_  
 Amount Requested in this Draw: \$ \_\_\_\_\_  
 Grantee: \_\_\_\_\_ Including this Draw  
 Total Disbursements To Date: \$ \_\_\_\_\_

Grantee: I hereby request an inspection to receive Payment # \_\_\_\_\_ for the amount of \$ \_\_\_\_\_. I certify that I have satisfactorily completed the necessary work to justify this request and that all bills incurred for labor used and materials furnished in making said repairs and improvements have been paid in full to this date.

Attached is a description of the work completed, the amount of payment requested by work item and such invoices, receipts, cancelled checks (or evidence that payment has cleared grantee's banking account), and other documents required by the City evidencing that the costs and expenses were actually incurred and paid for by the Grantee and were expended on and pertain to the Work.

Grantee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT F**

Omitted

## EXHIBIT G

### Insurance Requirements

The Developer shall at all times during the term of this Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Agreement (and Developer shall require its General Contractor, Designers, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

#### Insurance Coverages

Schedule	Limits
<b>Worker's Compensation Employer's Liability</b>	Florida Statutory Coverage \$1,000,000 Each Accident \$1,000,000 Disease Policy Limit \$1,000,000 Each Employee/Disease

This insurance shall cover the Developer (and, to the extent they are not otherwise insured, their General Contractor, Contractors and subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

<b>Commercial General Liability</b>	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/Advertising Injury
	\$1,000,000	Each Occurrence
	\$50,000	Fire Damage
	\$5,000	Medical Expenses

Developer shall continue to maintain products/completed operations coverage for a period of ten (10) years after the final completion of the project. The amount of products/completed operations coverage maintained during the ten year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by Developer in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the Work.

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management.

**Automobile Liability** \$1,000,000 Combined Single Limit (Coverage for all automobiles, owned, hired or non-owned used in performance of the Agreement)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

**Design Professional Liability** \$2,000,000 per Claim  
\$2,000,000 Aggregate

Any entity hired to perform professional services as a part of this Agreement shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Agreement and with a ten (10) year reporting option beyond the annual expiration date of the policy.

**Builders Risk** %100 Completed Value of the Project

Such insurance shall be on a form acceptable to the City's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$10,000 deductible for other than windstorm and hail. For windstorm and hail coverage, the maximum deductible applicable shall be 2% of the completed value of the City Improvements. Named insured's shall be: Developer, General Contractor, the City, and respective members, officials, officers, employees and agents, the Engineer, and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

**Pollution Liability** \$1,000,000 per Loss  
\$2,000,000 Annual Aggregate

Any entity hired to perform services as part of this Agreement for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

**Pollution Legal Liability** \$1,000,000 per Loss  
\$2,000,000 Aggregate

Any entity hired to perform services as a part of this Agreement that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily



injury and property damage for losses that arise from the facility that is accepting the waste under this Agreement.

**Umbrella Liability**

\$2,000,000 Each Occurrence/ Aggregate.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above.

**Additional Insurance Provisions**

- A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville, and their respective members, officials, officers, directors, employees, representatives and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville, and their respective members, officials, officers, directors, employees, representatives and agents.
- C. Developers Insurance Primary. The insurance provided by Developer shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City, or any of their respective members, officials, officers, directors, employees, representatives and agents.
- D. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- E. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured. Under no circumstances will the City of Jacksonville, and their respective members, officials, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Agreement.
- F. Insurance Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of Developer, Contractors, Subcontractors, employees or agents to the City or others. Any remedy provided to City, or City of Jacksonville, and their respective members, officials, officers, directors, employees and agents shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.
- G. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Developer and/or General Contractor shall relieve Developer and/or General Contractor of full responsibility to provide insurance as required under this Agreement.

- H. Certificates of Insurance. Developer shall provide the City Certificates of Insurance that shows the corresponding City Agreement Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- I. Notice. Developer shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, Developer shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of Developer shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Agreement, Developer shall present this Agreement and this Exhibit G to its Insurance Agent affirming: 1) That the Agent has personally reviewed the insurance requirements of the Project Documents, and(2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Developer.

**Bonds and Other Performance Security.** Developer shall not perform or commence any construction services for the City Improvements until the following performance bond and labor and material payment bond or other performance security have been delivered to City.

Bonds - In accordance with the provisions of Section 255.05, Florida Statutes, Developer shall provide to City on forms furnished by the City, a 100% Performance Bond and a 100% Labor and Material Payment Bond for the City Improvements performed under this Agreement, each in an amount not less than an amount at least equal to the amount of the Total Project Costs for the construction of the City Improvements no qualification or modifications to the Bond forms are permitted.

To be acceptable to City, as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

1. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.

2. The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.

3. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

4. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code during the life of this agreement.

5. If the Contract Award Amount exceeds \$200,000, the Surety Company shall also comply with the following provisions:

a. The Surety Company shall have at least the following minimum ratings in the latest issue of A.M. Best's Key Rating Guide.

CONTRACT AMOUNT	RATING	RATING
\$ 500,000 TO \$1,000,000	A-	CLASS IV
\$1,000,000 TO \$2,500,000	A-	CLASS V
\$2,500,000 TO \$5,000,000	A-	CLASS VI
\$5,000,000 TO \$10,000,000	A-	CLASS VII
\$10,000,000 TO \$25,000,000	A-	CLASS VIII
\$25,000,000 TO \$50,000,000	A-	CLASS IX
\$50,000,000 TO \$75,000,000	A-	CLASS X

b. The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:

1) Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to conduct business in this state have been met.

2) In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.



## EXHIBIT I

### Indemnification by Developer

Developer shall, and Developer shall cause its contractors and subcontractors of any tier to, hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Developer that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Developer's performance of the Agreement, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Agreement contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Agreement; and

3. Intellectual Property Liability, to the extent this Agreement contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Work, any product generated by the Work, or any part of the Work as contemplated in this Agreement, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Work, or any product generated by the Work, is held to constitute an infringement and its use is permanently enjoined, the Developer shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Work or product. If the Developer fails to secure such a license for the Indemnified Parties, then the Developer shall replace the Work or product with a non-infringing Work or product or modify such Work or product in a way satisfactory to Buyer, so that the Work or product is non-infringing.

If Developer exercises its rights under this Agreement, the Developer will (1) provide reasonable notice to the Indemnified Parties of the applicable claim or liability, and (2) allow Indemnified Parties, at their own expense, to participate in the litigation of such claim or liability to protect their interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to this Agreement or otherwise. Such terms of indemnity shall survive the expiration or termination of this Agreement.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes. The City is an intended third-party beneficiary of the indemnifications set forth herein, which indemnifications shall survive the expiration or earlier termination of Developer's agreement with General Contractor or its contractors and consultants.

The foregoing indemnity shall exclude any liabilities, damages, losses, costs, and expenses of whatsoever kind or nature, including, but not limited to, reasonable attorney's fees, reasonable expert

witness fees and court costs, to the extent such damages arise out of or are caused by the gross negligence or willful misconduct of the Indemnified Parties.

# EXHIBIT N

**EXHIBIT N**

Marina Temporary Construction Easement



Temporary Construction Easement  
(City Marina Improvements)

THIS INSTRUMENT PREPARED BY  
AND RECORD AND RETURN TO:

John C. Sawyer, Jr.  
Chief, Gov. Operations Dept.  
City of Jacksonville  
117 W. Duval St., Suite 480  
Jacksonville, FL 32202

**TEMPORARY CONSTRUCTION EASEMENT**

**THIS TEMPORARY CONSTRUCTION EASEMENT** (this “Easement Agreement”) is made as of \_\_\_\_\_, 2021, by and between the **CITY OF JACKSONVILLE**, a body politic and municipal corporation existing under the laws of the State of Florida, whose mailing address is c/o Downtown Investment Authority, 117 W. Duval Street, Suite 310, Jacksonville, Florida 32202, hereinafter called the Grantor, to **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, whose address is 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133, hereinafter called the Grantee.

**WITNESSETH:** in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be mutually bound do hereby agree as follows:

1. **Grant of Easement.** Grantor does hereby grant and convey to Grantee, its successors and assigns a temporary, non-exclusive easement for the purposes of constructing and installing the City Marina Improvements (as such term is defined in that certain Redevelopment Agreement between Grantor and Grantee dated \_\_\_\_\_), to be undertaken by Grantee on, over, under, through, and across the following described land in Duval County, Florida:

See Exhibit A attached hereto and incorporated herein (the “Easement Premises”).

2. **Term of Easement.** This Easement Agreement shall automatically expire and terminate upon the earlier of: (x) completion of the City Marina Improvements, or (y) April 30, 2025; provided however that upon the written request of the Grantor following completion of the City Marina Improvements, Grantee shall execute and deliver for recordation a termination of this Easement Agreement.

3. Indemnification. Grantee hereby agrees to, and to cause its third party contractors performing work on the Project to (with the City named as intended third-party beneficiary), indemnify, defend and save Grantor and its members, officers, employees, agents, successors-in-interest and assigns (the “Indemnified Parties”) harmless from and against any and all claims, action, losses, damage, injury, liability, cost and expense of whatsoever kind or nature (including but not by way of limitation, attorneys’ fees and court costs) arising out of injury or death to persons or damage to or loss of property arising out of or alleged to have arisen out of or occasioned by exercise by Grantee or its successors, assigns, contractors, employees, representatives, directors, officers, invitees or agents of the easement rights hereunder granted, except to the extent such injury or death to persons or damage to or loss of property shall have been caused by the gross negligence of the Indemnified Parties. The provisions of this paragraph shall survive termination of this Easement Agreement.

4. Insurance. See Exhibit B attached hereto and incorporated herein by this reference for the insurance requirements of Grantee.

5. Successors and Assigns. The burdens of this Easement Agreement shall run with title to the Easement Premises, and all benefits and rights granted hereunder shall be appurtenant to the interest of the parties hereto. This Easement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

6. Use; Compliance with Laws. Subject to the provisions hereof, Grantee shall have the right to use the Easement Premises for the purpose stated in paragraph 1 above and for no other purpose without the prior written consent of Grantor (which consent may be withheld in Grantor’s sole discretion). Grantor shall continue to enjoy the use of the Easement Premises for any and all purposes not inconsistent with Grantee’s rights hereunder. Grantee shall comply with all laws, rules and regulations, orders and decisions of all governmental authorities, respecting the use of and operations and activities on the Easement Premises, including, but not limited to, environmental, zoning and land use regulations. Grantee shall not make, suffer or permit any unlawful use of the Easement Premises, or any part thereof.

7. Severability. The invalidity of any provision contained in this Easement Agreement shall not affect the remaining portions of this Easement Agreement, provided that such remaining portions remain consistent with the intent of this Easement Agreement and do not violate Florida law, which law shall govern this Easement Agreement.

8. Construction. The parties acknowledge that each party has reviewed and revised this Easement Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Easement Agreement.

9. Notices. Any notice, demand, consent, authorization, request, approval or other communication (collectively, “Notice”) that any party is required, or may desire, to give to or make upon the other party pursuant to this Agreement shall be effective and valid only if in writing, signed by the parties giving such Notice, and delivered personally to the other parties or sent by express 24-hour guaranteed courier or delivery service, or by registered or certified mail of the

United States Postal Service, postage prepaid and return receipt requested, addressed to the other parties and sent simultaneously as follows (or to such other place as any party may by Notice to the other specify):

To Grantor: City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attn: Lori Boyer  
Email: [boyerl@coj.net](mailto:boyerl@coj.net)

With a copy to: Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: Corporation Secretary

To Grantee: RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attn: Steve Patterson  
Email: [spatterson@relatedroup.com](mailto:spatterson@relatedroup.com)

With a copy to: Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attn: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

Notices shall be deemed given when received, except that if delivery is not accepted, Notice shall be deemed given on the date of such non-acceptance. The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.

10. Modification and Waiver. This Agreement shall not be modified or amended and no waiver of any provision shall be effective unless set forth in writing and signed by both parties.

11. Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Any action or proceeding arising out of or relating to this Agreement shall be brought in Duval County, Florida, either in the State or Federal courts. Both parties hereby waive any objections to the laying of venue in any such courts.

12. Attorneys Fees. If any lawsuit, arbitration or other legal proceeding (including, without limitation, any appellate proceeding) arises in connection with the interpretation or enforcement of this Easement Agreement, each party shall be responsible for its own costs and expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection

therewith, in preparation therefor and on appeal therefrom.

13. WAIVER OF RIGHT TO TRIAL BY JURY. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

**[Signatures on following page.]**

IN WITNESS WHEREOF, the Grantor and Grantee have signed and sealed these presents to be effective the day and year first written above.

ATTEST:

CITY OF JACKSONVILLE

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

\_\_\_\_\_  
Lenny Curry, Mayor

Form Approved:

By: \_\_\_\_\_  
Office of General Counsel

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

GC-#1421558-v5-Exhibit\_N\_to\_Related\_(Maritime)\_RDA\_-\_Temporary\_Construction\_Easement\_-\_Marina\_Improvements\_-\_RD\_River\_City\_Brewer\_(Maritime).docx

**RD RIVER CITY BREWERY, LLC, a  
Florida limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, on behalf of the company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

EXHIBIT A to Temporary Construction Easement

[To be added]

EXHIBIT B to Temporary Construction Easement

Grantee Insurance Requirements

Without limiting its liability under this Easement Agreement, Grantee shall at all times during the term of this Easement Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Easement Agreement (and Grantee shall require its, contractor, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

**Insurance Coverages**

Schedule	Limits
<b>Worker’s Compensation Employer’s Liability</b>	Florida Statutory Coverage \$ 1,000,000 Each Accident \$ 1,000,000 Disease Policy Limit \$ 1,000,000 Each Employee/Disease

This insurance shall cover the Grantee (and, to the extent they are not otherwise insured, its contractors and subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers’ Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers’ Compensation Act, where appropriate, coverage is to be included for the Federal Employers’ Liability Act, USL&H and Jones, and any other applicable federal or state law.

<b>Commercial General Liability</b>	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/ Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

The policy shall be endorsed to provide a separate aggregate limit of liability applicable to the Work via a form no more restrictive than the most recent version of ISO Form CG 2503

Grantee will require Contractor to continue to maintain products/completed operations coverage for a period of three (3) years after the final completion of the project. The amount of products/completed operations coverage maintained during the three year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by Contractor in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the Work.

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City’s Office of Insurance and Risk Management.



**Automobile Liability** \$1,000,000 Combined Single Limit  
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Easement Agreement)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

**Design Professional Liability** \$1,000,000 per Claim  
\$2,000,000 Aggregate

Any entity hired to perform professional services as a part of this Easement Agreement shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Easement Agreement and with a three year reporting option beyond the annual expiration date of the policy.

**Builders Risk/Installation Floater** %100 Completed Value of the Project

Grantee will purchase or cause the General Contractor to purchase Builders Risk/Installation Floater coverage. Such insurance shall be on a form acceptable to the City's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$100,000 deductible for other than water damage, flood, windstorm and hail. For flood, windstorm and hail coverage, the maximum deductible applicable shall be 5% of the completed value of the project. For Water Damage, the maximum deductible applicable shall not exceed \$500,000. Named insured's shall be: Grantee, Contractor, the City, and their respective members, officials, officers, employees and agents, , and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

**Pollution Liability** \$2,000,000 per Loss  
\$2,000,000 Annual Aggregate

Any entity hired to perform services as part of this Easement Agreement for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

**Pollution Legal Liability** \$2,000,000 per Loss  
\$2,000,000 Aggregate

Any entity hired to perform services as a part of this Easement Agreement that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury

and property damage for losses that arise from the facility that is accepting the waste under this Easement Agreement.

**Umbrella Liability**

\$1,000,000 Each Occurrence/ Aggregate.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above and shall be included in the Umbrella policy

In the event that any part of the work to be performed hereunder shall require the Contractor or its Subcontractors to enter, cross or work upon or beneath the property, tracks, or right-of-way of a railroad or railroads, the Contractor shall, before commencing any such work, and at its expense, procure and carry liability or protective insurance coverage in such form and amounts as each railroad shall require.

The original of such policy shall be delivered to the railroad involved, with copies to the City, and their respective members, officials, officers, employee and agents, Engineer, and Program Management Firm(s) (when program management services are provided).

The Contractor shall not be permitted to enter upon or perform any work on the railroad's property until such insurance has been furnished to the satisfaction of the railroad. The insurance herein specified is in addition to any other insurance which may be required by the City, and shall be kept in effect at all times while work is being performed on or about the property, tracks, or right-of-way of the railroad.

**Additional Insurance Provisions**

- A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.
- C. Contractors', Subcontractors', and Vendors' insurance shall be primary to Grantees', and Grantee's Insurance shall be Primary with respect to Grantor's insurance or self-insurance. The insurance provided by the Grantee shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.
- D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Easement Agreement shall remain the sole and exclusive responsibility of the named insured Grantee. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Easement Agreement.
- E. Grantee's Insurance Additional Remedy. Compliance with the insurance requirements of this Easement Agreement shall not limit the liability of the Grantee or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers,

employees or agents shall be in addition to and not in lieu of any other remedy available under this Easement Agreement or otherwise.

- F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Grantee shall relieve Grantee of Grantee's full responsibility to provide insurance as required under this Easement Agreement.
- G. Certificates of Insurance. Grantee shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- I. Notice. The Grantee shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Grantee shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Grantee under this Easement Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Easement Agreement, Grantee shall present this Easement Agreement and Exhibit J to its Insurance Agent affirming: 1) that the Agent has personally reviewed the insurance requirements of the Easement Agreement, and (2) that the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Grantee.

# EXHIBIT O

**EXHIBIT O**

Riverwalk Temporary Construction Easement

Temporary Construction Easement  
(Riverwalk Improvements)

THIS INSTRUMENT PREPARED BY  
AND RECORD AND RETURN TO:

John C. Sawyer, Jr.  
Chief, Gov. Operations Dept.  
City of Jacksonville  
117 W. Duval St., Suite 480  
Jacksonville, FL 32202

**TEMPORARY CONSTRUCTION EASEMENT**

**THIS TEMPORARY CONSTRUCTION EASEMENT** (this “Easement Agreement”) is made as of \_\_\_\_\_, 2021, by and between the **CITY OF JACKSONVILLE**, a body politic and municipal corporation existing under the laws of the State of Florida, whose mailing address is c/o Downtown Investment Authority, 117 W. Duval Street, Suite 310, Jacksonville, Florida 32202, hereinafter called the Grantor, to **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, whose address is 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133, hereinafter called the Grantee.

**WITNESSETH:** in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be mutually bound do hereby agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey to Grantee, its successors and assigns a temporary, non-exclusive easement for the purposes of constructing and installing the Riverwalk Improvements (as such term is defined in that certain Redevelopment Agreement between Grantor and Grantee dated \_\_\_\_\_), to be undertaken by Grantee on, over, under, through, and across the following described land in Duval County, Florida:

See Exhibit A attached hereto and incorporated herein (the “Easement Premises”).

2. Term of Easement. This Easement Agreement shall automatically expire and terminate upon the earlier of: (x) completion of the Riverwalk Improvements, or (y) April 30, 2025; provided however that upon the written request of the Grantor following completion of the Riverwalk Improvements, Grantee shall execute and deliver for recordation a termination of this Easement Agreement.

3. Indemnification. Grantee hereby agrees to, and to cause its third party contractors performing work on the Project to (with the City named as intended third-party beneficiary), indemnify, defend and save Grantor and its members, officers, employees, agents, successors-in-interest and assigns (the “Indemnified Parties”) harmless from and against any and all claims, action, losses, damage, injury, liability, cost and expense of whatsoever kind or nature (including but not by way of limitation, attorneys’ fees and court costs) arising out of injury or death to persons or damage to or loss of property arising out of or alleged to have arisen out of or occasioned by exercise by Grantee or its successors, assigns, contractors, employees, representatives, directors, officers, invitees or agents of the easement rights hereunder granted, except to the extent such injury or death to persons or damage to or loss of property shall have been caused by the gross negligence of the Indemnified Parties. The provisions of this paragraph shall survive termination of this Easement Agreement.

4. Insurance. See Exhibit B attached hereto and incorporated herein by this reference for the insurance requirements of Grantee.

5. Successors and Assigns. The burdens of this Easement Agreement shall run with title to the Easement Premises, and all benefits and rights granted hereunder shall be appurtenant to the interest of the parties hereto. This Easement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

6. Use; Compliance with Laws. Subject to the provisions hereof, Grantee shall have the right to use the Easement Premises for the purpose stated in paragraph 1 above and for no other purpose without the prior written consent of Grantor (which consent may be withheld in Grantor’s sole discretion). Grantor shall continue to enjoy the use of the Easement Premises for any and all purposes not inconsistent with Grantee’s rights hereunder. Grantee shall comply with all laws, rules and regulations, orders and decisions of all governmental authorities, respecting the use of and operations and activities on the Easement Premises, including, but not limited to, environmental, zoning and land use regulations. Grantee shall not make, suffer or permit any unlawful use of the Easement Premises, or any part thereof.

7. Severability. The invalidity of any provision contained in this Easement Agreement shall not affect the remaining portions of this Easement Agreement, provided that such remaining portions remain consistent with the intent of this Easement Agreement and do not violate Florida law, which law shall govern this Easement Agreement.

8. Construction. The parties acknowledge that each party has reviewed and revised this Easement Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Easement Agreement.

9. Notices. Any notice, demand, consent, authorization, request, approval or other communication (collectively, “Notice”) that any party is required, or may desire, to give to or make upon the other party pursuant to this Agreement shall be effective and valid only if in writing, signed by the parties giving such Notice, and delivered personally to the other parties or sent by express 24-hour guaranteed courier or delivery service, or by registered or certified mail of the

United States Postal Service, postage prepaid and return receipt requested, addressed to the other parties and sent simultaneously as follows (or to such other place as any party may by Notice to the other specify):

To Grantor: City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attn: Lori Boyer  
Email: [boyerl@coj.net](mailto:boyerl@coj.net)

With a copy to: Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: Corporation Secretary

To Grantee: RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attn: Steve Patterson  
Email: [spatterson@relatedroup.com](mailto:spatterson@relatedroup.com)

With a copy to: Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attn: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

Notices shall be deemed given when received, except that if delivery is not accepted, Notice shall be deemed given on the date of such non-acceptance. The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.

10. Modification and Waiver. This Agreement shall not be modified or amended and no waiver of any provision shall be effective unless set forth in writing and signed by both parties.

11. Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Any action or proceeding arising out of or relating to this Agreement shall be brought in Duval County, Florida, either in the State or Federal courts. Both parties hereby waive any objections to the laying of venue in any such courts.

12. Attorneys Fees. If any lawsuit, arbitration or other legal proceeding (including, without limitation, any appellate proceeding) arises in connection with the interpretation or enforcement of this Easement Agreement, each party shall be responsible for its own costs and



expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection therewith, in preparation therefor and on appeal therefrom.

13. WAIVER OF RIGHT TO TRIAL BY JURY. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

**[Signatures on following page.]**

IN WITNESS WHEREOF, the Grantor and Grantee have signed and sealed these presents to be effective the day and year first written above.

ATTEST:

CITY OF JACKSONVILLE

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

\_\_\_\_\_  
Lenny Curry, Mayor

Form Approved:

By: \_\_\_\_\_  
Office of General Counsel

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**RD RIVER CITY BREWERY, LLC**, a  
Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, on behalf of the company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

EXHIBIT A to Temporary Construction Easement

[To be added]

EXHIBIT B to Temporary Construction Easement

Grantee Insurance Requirements

Without limiting its liability under this Easement Agreement, Grantee shall at all times during the term of this Easement Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Easement Agreement (and Grantee shall require its, contractor, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

**Insurance Coverages**

Schedule	Limits
<b>Worker’s Compensation Employer’s Liability</b>	Florida Statutory Coverage \$ 1,000,000 Each Accident \$ 1,000,000 Disease Policy Limit \$ 1,000,000 Each Employee/Disease

This insurance shall cover the Grantee (and, to the extent they are not otherwise insured, its contractors and subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers’ Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers’ Compensation Act, where appropriate, coverage is to be included for the Federal Employers’ Liability Act, USL&H and Jones, and any other applicable federal or state law.

<b>Commercial General Liability</b>	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/ Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

The policy shall be endorsed to provide a separate aggregate limit of liability applicable to the Work via a form no more restrictive than the most recent version of ISO Form CG 2503

Grantee will require Contractor to continue to maintain products/completed operations coverage for a period of three (3) years after the final completion of the project. The amount of products/completed operations coverage maintained during the three year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by Contractor in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the Work.

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City’s Office of Insurance and Risk Management.

**Automobile Liability** \$1,000,000 Combined Single Limit  
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Easement Agreement)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

**Design Professional Liability** \$1,000,000 per Claim  
\$2,000,000 Aggregate

Any entity hired to perform professional services as a part of this Easement Agreement shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Easement Agreement and with a three year reporting option beyond the annual expiration date of the policy.

**Builders Risk/Installation Floater** %100 Completed Value of the Project

Grantee will purchase or cause the General Contractor to purchase Builders Risk/Installation Floater coverage. Such insurance shall be on a form acceptable to the City's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$100,000 deductible for other than water damage, flood, windstorm and hail. For flood, windstorm and hail coverage, the maximum deductible applicable shall be 5% of the completed value of the project. For Water Damage, the maximum deductible applicable shall not exceed \$500,000. Named insured's shall be: Grantee, Contractor, the City, and their respective members, officials, officers, employees and agents, and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

**Pollution Liability** \$2,000,000 per Loss  
\$2,000,000 Annual Aggregate

Any entity hired to perform services as part of this Easement Agreement for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

**Pollution Legal Liability** \$2,000,000 per Loss  
\$2,000,000 Aggregate

Any entity hired to perform services as a part of this Easement Agreement that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury

and property damage for losses that arise from the facility that is accepting the waste under this Easement Agreement.

**Umbrella Liability**

\$1,000,000 Each Occurrence/ Aggregate.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above and shall be included in the Umbrella policy

In the event that any part of the work to be performed hereunder shall require the Contractor or its Subcontractors to enter, cross or work upon or beneath the property, tracks, or right-of-way of a railroad or railroads, the Contractor shall, before commencing any such work, and at its expense, procure and carry liability or protective insurance coverage in such form and amounts as each railroad shall require.

The original of such policy shall be delivered to the railroad involved, with copies to the City, and their respective members, officials, officers, employee and agents, Engineer, and Program Management Firm(s) (when program management services are provided).

The Contractor shall not be permitted to enter upon or perform any work on the railroad's property until such insurance has been furnished to the satisfaction of the railroad. The insurance herein specified is in addition to any other insurance which may be required by the City, and shall be kept in effect at all times while work is being performed on or about the property, tracks, or right-of-way of the railroad.

**Additional Insurance Provisions**

- A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.
- C. Contractors', Subcontractors', and Vendors' insurance shall be primary to Grantees', and Grantee's Insurance shall be Primary with respect to Grantor's insurance or self-insurance. The insurance provided by the Grantee shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.
- D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Easement Agreement shall remain the sole and exclusive responsibility of the named insured Grantee. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Easement Agreement.
- E. Grantee's Insurance Additional Remedy. Compliance with the insurance requirements of this Easement Agreement shall not limit the liability of the Grantee or its Subcontractors, employees or

agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Easement Agreement or otherwise.

- F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Grantee shall relieve Grantee of Grantee's full responsibility to provide insurance as required under this Easement Agreement.
- G. Certificates of Insurance. Grantee shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- I. Notice. The Grantee shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Grantee shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Grantee under this Easement Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Easement Agreement, Grantee shall present this Easement Agreement and Exhibit J to its Insurance Agent affirming: 1) that the Agent has personally reviewed the insurance requirements of the Easement Agreement, and (2) that the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Grantee.



# EXHIBIT P

**EXHIBIT P**

**Disbursement Request Form**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Tax ID #: \_\_\_\_\_

Request/Draw Number: \_\_\_\_\_  
Document Number: \_\_\_\_\_  
Date Submitted: \_\_\_\_\_

1.	Amount of this request:	\$ _____
2.	Funds received to date:	\$ _____
3.	Funds disbursed to date:	\$ _____
4.	Funds previously requested but not yet received:	\$ _____

**Disbursements will be provided based on Verified Direct Costs of the City Marina Improvements.**

**GRANTEE PAYMENT REQUEST**

Project \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Payment # \_\_\_\_\_ = 100 % Complete

Total Project Cost: \$ \_\_\_\_\_

Amount Requested in this Draw: \$ \_\_\_\_\_

Grantee: \_\_\_\_\_

Including this Draw  
Total Disbursements To Date: \$ \_\_\_\_\_

Grantee: I hereby request an inspection to receive Payment # \_\_\_\_\_ for the amount of \$ \_\_\_\_\_. I certify that I have satisfactorily completed the necessary work to justify this request and that all bills incurred for labor used and materials furnished in making said repairs and improvements have been paid in full to this date.

Attached is a description of the work completed, the amount of payment requested by work item and such invoices, receipts, cancelled checks (or evidence that payment has cleared grantee's banking account), and other documents required by the City evidencing that the costs and expenses were actually incurred and paid for by the Grantee and were expended on and pertain to the Work.

Grantee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# EXHIBIT Q

## **EXHIBIT Q**

### **Restaurant Improvements**

A no less than 1,800 sq. ft. building which is no greater than 25' in height, with an additional outdoor dining and restaurant amenity space of not less than 3,200 sq. ft. in size, to be constructed and located on the Restaurant Parcel, excluding tenant improvements. All delivery, trash storage and pick-up, and similar uses will be designed to have minimal impact on public park spaces. The restaurant will be a park front facility accessible and visible from the park. The restaurant is modeled after Glass & Vine in Coconut Grove, Florida ([glassandvine.com](http://glassandvine.com)).

# EXHIBIT R

**EXHIBIT R**

USTs and Fuel Line Temporary Construction Easement

**EXHIBIT R**

Temporary Construction Easement  
(Fuel Line and Storage Tanks)

THIS INSTRUMENT PREPARED BY  
AND RECORD AND RETURN TO:

John C. Sawyer, Jr.  
Chief, Gov. Operations Dept.  
City of Jacksonville  
117 W. Duval St., Suite 480  
Jacksonville, FL 32202

**TEMPORARY CONSTRUCTION EASEMENT**

**THIS TEMPORARY CONSTRUCTION EASEMENT** (this “Easement Agreement”) is made as of \_\_\_\_\_, 2021, by and between the **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, whose address is 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133, hereinafter called the Grantor, and **CITY OF JACKSONVILLE**, a body politic and municipal corporation existing under the laws of the State of Florida, whose mailing address is c/o Downtown Investment Authority, 117 W. Duval Street, Suite 310, Jacksonville, Florida 32202, hereinafter called the Grantee.

**WITNESSETH:** in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be mutually bound do hereby agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey to Grantee, its successors and assigns a temporary, unobstructed, non-exclusive easement for the purposes of constructing and installing fuel and other utility lines, facilities and equipment and relocating two underground storage tanks to an above ground location to be undertaken by Grantee (the “UST Project”) on, over, under, through, and across the following described land in Duval County, Florida:

See Exhibit A attached hereto and incorporated herein (the “Easement Premises”).

2. Term of Easement. This Easement Agreement shall automatically expire and terminate upon the earlier of: (x) completion of the UST Project, or (y) April 30, 2025; provided however that upon the written request of the Grantor following completion of the UST Project, Grantee shall execute and deliver for recordation a termination of this Easement Agreement.

3. Indemnification. Grantee hereby agrees to cause its third party contractors performing work on the Project to (with the City named as intended third-party beneficiary), indemnify, defend and save Grantor and its members, officers, employees, agents, successors-in-interest and assigns (the “Indemnified Parties”) harmless from and against any and all claims, action, losses, damage, injury, liability, cost and expense of whatsoever kind or nature (including but not by way of limitation, attorneys’ fees and court costs) arising out of injury or death to persons or damage to or loss of property arising out of or alleged to have arisen out of or occasioned by exercise by Grantee or its successors, assigns, contractors, employees, representatives, directors, officers, invitees or agents of the easement rights hereunder granted, except to the extent such injury or death to persons or damage to or loss of property shall have been caused by the negligence of the Indemnified Parties. This indemnity shall not be construed to alter, amend or expand the parameters of Section 768.28, Florida Statutes, as applicable. The provisions of this paragraph shall survive termination of this Easement Agreement.

4. Insurance. See Exhibit B attached hereto and incorporated herein by this reference for the insurance requirements of Grantee’s contractors.

5. Successors and Assigns. The burdens of this Easement Agreement shall run with title to the Easement Premises, and all benefits and rights granted hereunder shall be appurtenant to the interest of the parties hereto. This Easement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

6. Use; Compliance with Laws. Subject to the provisions hereof, Grantee shall have the right to use the Easement Premises for the purpose stated in paragraph 1 above and for no other purpose without the prior written consent of Grantor (which consent may be withheld in Grantor’s sole discretion); provided, each of the rights and benefits granted herein shall include all those additional rights and benefits which are necessary for the full enjoyment thereof and are customarily incidental thereto. Grantor shall continue to enjoy the use of the Easement Premises for any and all purposes not inconsistent with Grantee’s rights hereunder so long as the same does not conflict with the operation of and access to the UST Project. Grantee shall comply with all laws, rules and regulations, orders and decisions of all governmental authorities, respecting the use of and operations and activities on the Easement Premises, including, but not limited to, environmental, zoning and land use regulations. Grantee shall not make, suffer or permit any unlawful use of the Easement Premises, or any part thereof.

7. Severability. The invalidity of any provision contained in this Easement Agreement shall not affect the remaining portions of this Easement Agreement, provided that such remaining portions remain consistent with the intent of this Easement Agreement and do not violate Florida law, which law shall govern this Easement Agreement.

8. Construction. The parties acknowledge that each party has reviewed and revised this Easement Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Easement Agreement.



9. Notices. Any notice, demand, consent, authorization, request, approval or other communication (collectively, “Notice”) that any party is required, or may desire, to give to or make upon the other party pursuant to this Agreement shall be effective and valid only if in writing, signed by the parties giving such Notice, and delivered personally to the other parties or sent by express 24-hour guaranteed courier or delivery service, or by registered or certified mail of the United States Postal Service, postage prepaid and return receipt requested, addressed to the other parties and sent simultaneously as follows (or to such other place as any party may by Notice to the other specify):

To Grantor: RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attn: Steve Patterson  
Email: [spatterson@relatedroup.com](mailto:spatterson@relatedroup.com)

With a copy to: Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attn: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

To Grantee: City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attn: Lori Boyer  
Email: [boyerl@coj.net](mailto:boyerl@coj.net)

With a copy to: Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: Corporation Secretary

Notices shall be deemed given when received, except that if delivery is not accepted, Notice shall be deemed given on the date of such non-acceptance. The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.

10. Modification and Waiver. This Agreement shall not be modified or amended and no waiver of any provision shall be effective unless set forth in writing and signed by both parties.

11. Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Any action or proceeding arising out of or relating to this

Agreement shall be brought in Duval County, Florida, either in the State or Federal courts. Both parties hereby waive any objections to the laying of venue in any such courts.

12. Attorneys Fees. If any lawsuit, arbitration or other legal proceeding (including, without limitation, any appellate proceeding) arises in connection with the interpretation or enforcement of this Easement Agreement, each party shall be responsible for its own costs and expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection therewith, in preparation therefor and on appeal therefrom.

13. WAIVER OF RIGHT TO TRIAL BY JURY. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

**[Signatures on following page.]**

IN WITNESS WHEREOF, the Grantor and Grantee have signed and sealed these presents to be effective the day and year first written above.

ATTEST:

CITY OF JACKSONVILLE

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

\_\_\_\_\_  
Lenny Curry, Mayor

Form Approved:

By: \_\_\_\_\_  
Office of General Counsel

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**RD RIVER CITY BREWERY, LLC, a  
Florida limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_  )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, on behalf of the company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

EXHIBIT A to Temporary Construction Easement

[To be inserted after confirmation by survey.]

EXHIBIT B to Temporary Construction Easement

Grantee’s Contractor Insurance Requirements

Without limiting its liability under this Easement Agreement, Grantee shall cause its contractors at all times during the term of this Easement Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Easement Agreement (and Grantee shall require its, contractor, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

**Insurance Coverages**

Schedule	Limits
<b>Worker’s Compensation Employer’s Liability</b>	Florida Statutory Coverage \$ 1,000,000 Each Accident \$ 1,000,000 Disease Policy Limit \$ 1,000,000 Each Employee/Disease

This insurance shall cover the Grantee (and, to the extent they are not otherwise insured, its contractors and subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers’ Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers’ Compensation Act, where appropriate, coverage is to be included for the Federal Employers’ Liability Act, USL&H and Jones, and any other applicable federal or state law.

<b>Commercial General Liability</b>	\$3,000,000	General Aggregate
	\$3,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/ Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

The policy shall be endorsed to provide a separate aggregate limit of liability applicable to the Work via a form no more restrictive than the most recent version of ISO Form CG 2503

Grantee will require Contractor to continue to maintain products/completed operations coverage for a period of three (3) years after the final completion of the project. The amount of products/completed operations coverage maintained during the three year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by Contractor in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the Work.

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City’s Office of Insurance and Risk Management.

**Automobile Liability** \$1,000,000 Combined Single Limit  
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Easement Agreement)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

**Builders Risk/Installation Floater** %100 Completed Value of the Project

Grantee will purchase or cause the General Contractor to purchase Builders Risk/Installation Floater coverage. Such insurance shall be on a form acceptable to the City's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$100,000 deductible for other than water damage, flood, windstorm and hail. For flood, windstorm and hail coverage, the maximum deductible applicable shall be 5% of the completed value of the project. For Water Damage, the maximum deductible applicable shall not exceed \$500,000. Named insured's shall be: Grantee, Contractor, the City, and their respective members, officials, officers, employees and agents, and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

**Pollution Liability** \$4,000,000 per Loss  
\$4,000,000 Annual Aggregate

Any entity hired to perform services as part of this Easement Agreement for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

**Pollution Legal Liability** \$2,000,000 per Loss  
\$2,000,000 Aggregate

Any entity hired to perform services as a part of this Easement Agreement that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury and property damage for losses that arise from the facility that is accepting the waste under this Easement Agreement.

**Umbrella Liability** \$4,000,000 Each Occurrence/ Aggregate.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above and shall be included in the Umbrella policy

In the event that any part of the work to be performed hereunder shall require the Contractor or its Subcontractors to enter, cross or work upon or beneath the property, tracks, or right-of-way of a railroad or railroads, the Contractor shall, before commencing any such work, and at its expense, procure and carry liability or protective insurance coverage in such form and amounts as each railroad shall require.

The original of such policy shall be delivered to the railroad involved, with copies to the City, and their respective members, officials, officers, employee and agents, Engineer, and Program Management Firm(s) (when program management services are provided).

The Contractor shall not be permitted to enter upon or perform any work on the railroad's property until such insurance has been furnished to the satisfaction of the railroad. The insurance herein specified is in addition to any other insurance which may be required by the City, and shall be kept in effect at all times while work is being performed on or about the property, tracks, or right-of-way of the railroad.

#### **Additional Insurance Provisions**

- A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.
- C. Contractors', Subcontractors', and Vendors' insurance shall be primary to Grantees', and Grantee's Insurance shall be Primary with respect to Grantor's insurance or self-insurance. The insurance provided by the Grantee shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.
- D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Easement Agreement shall remain the sole and exclusive responsibility of the named insured Grantee. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Easement Agreement.
- E. Grantee's Insurance Additional Remedy. Compliance with the insurance requirements of this Easement Agreement shall not limit the liability of the Grantee or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Easement Agreement or otherwise.



- F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Grantee shall relieve Grantee of Grantee's full responsibility to provide insurance as required under this Easement Agreement.
- G. Certificates of Insurance. Grantee shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- I. Notice. The Grantee shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Grantee shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Grantee under this Easement Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Easement Agreement, Grantee shall present this Easement Agreement and Exhibit J to its Insurance Agent affirming: 1) that the Agent has personally reviewed the insurance requirements of the Easement Agreement, and (2) that the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Grantee.

# EXHIBIT S

**EXHIBIT S**

Loading Area Easement

Prepared by:

John C. Sawyer, Jr.  
Assistant General Counsel  
Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202

**NON-EXCLUSIVE PEDESTRIAN AND VEHICULAR ACCESS EASEMENT  
AGREEMENT**

This NON-EXCLUSIVE PEDESTRIAN AND VEHICULAR ACCESS EASEMENT AGREEMENT (“Easement Agreement”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between **CITY OF JACKSONVILLE**, a body politic and municipal corporation existing under the laws of the State of Florida (“**Grantor**”), whose mailing address is c/o Downtown Investment Authority, 117 W. Duval Street, Suite 310, Jacksonville, Florida 32202, hereinafter called the Grantor and **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, (“**Grantee**”) whose address is 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133.

RECITALS:

A. Grantor owns certain property described on **Exhibit A** attached hereto and made a part hereof (the “Easement Area”).

B. Grantee has constructed that certain structured parking facility containing no less than five hundred (500) spaces (the “Parking Garage”) located on the property set forth on **Exhibit B** (the “Benefited Parcel”), which lies adjacent to the Easement Area.

C. Grantee has requested, and Grantor has agreed to provide, a non-exclusive vehicular and pedestrian access easement to benefit only the Benefited Parcel, according to the terms and conditions more particularly set forth herein.

NOW, THEREFORE, in consideration of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of Easement Rights.** Grantor hereby bargains, sells, grants and conveys unto Grantee, its successors and assigns, a perpetual non-exclusive easement over and across the Easement Area for the purpose of pedestrian and vehicular ingress, egress and passage, but in no event parking, for the sole and limited purposes of loading and unloading of passengers and property, accessing the Parking Garage, and commercial vehicle turn-around; provided that, the easement rights granted herein shall not include any right to park vehicles (other than temporarily in connection with the use of the Easement Area for loading and unloading of vehicles) or otherwise obstruct the

driveways, entries and exits located on the Easement Area. The easement rights granted herein are only for the benefit of and appurtenant to the Benefited Parcel.

2. **Reserved Rights.** Notwithstanding anything in this Agreement to the contrary or the foregoing grant of easement rights, Grantor, for itself and its successors and assigns, hereby reserves and retains the right to (a) use, and to grant to others the right to use the Easement Area for any lawful purpose or use not inconsistent with the grants made herein, (b) grant additional easements and licenses to others over, across, and under the Easement Area, (c) alter, modify or replace all or part of the sidewalks, driveways and other improvements located within the Easement Area in such a manner which does not materially diminish or prevent the access and use provided as of the date of this Easement Agreement, and (d) construct and install additional or substitute improvements within the Easement Area at any location and in any configuration that Grantor determines. Grantee acknowledges and agrees that the Easement Area is a public area and Grantee's rights granted herein are co-equal to the rights of the public to use the Easement Area as a public throughway. Without limiting the foregoing, (i) Grantor reserves the right to gate or otherwise block Grantee's access to the Easement Area during times of high activity when recommended by the Jacksonville Sheriff's Office, and (ii) Grantor and the JEA may exclusively use the Easement Area to place piping, pumps and other equipment used in connection with the maintenance or repair of any utilities, during such times as the JEA or Grantor deems necessary for undertaking any such utilities maintenance or repair.

3. **Restrictions on Use of Easement Area.** Grantee agrees that in utilizing the Easement Area, Grantee will not unreasonably interfere with any existing or future use of the Easement Area by the Grantor, its successors and assigns. Any property of Grantor disturbed by the Grantee in the exercise of the rights granted herein will be restored as soon as reasonably practical following such activity to its previously existing condition by the Grantee, at its sole cost and expense. Grantee shall not place or allow the placement of any items or structures on the Easement Area at any time without prior written permission from the Grantor, which permission may be denied in the Grantor's sole discretion.

5. **Indemnification.** Grantee shall indemnify, defend and hold harmless Grantor, its officers, agents, servants, employees, successors and assigns (the "**Indemnified Parties**") against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to the rights granted herein, except to the extent such claim, action, loss, damage, injury, liability, cost or expense shall have been caused by the gross negligence or intentional act of the Indemnified Parties. This paragraph shall survive the expiration or termination of this Easement Agreement.

6. **Notices.** Any notice required or permitted to be given pursuant to the terms of this Easement Agreement shall be in writing and personally delivered or sent by

registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts, only to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notices shall be deemed given and received for all purposes under this instrument and shall be effective only upon receipt or when delivery is attempted and refused.

Grantor:

City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attention: Lori Boyer  
Email: boyerl@coj.net

Grantee:

RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attention: Steve Patterson  
Email: [spatterson@relatedgroup.com](mailto:spatterson@relatedgroup.com)

With a copy to:

Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: General Counsel

With a copy to:

Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attention: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.

7. **Attorneys Fees.** If any lawsuit, arbitration or other legal proceeding (including, without limitation, any appellate proceeding) arises in connection with the interpretation or enforcement of this Easement Agreement, each party shall be responsible for its own costs and expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection therewith, in preparation therefor and on appeal therefrom.

8. **Miscellaneous.** This Easement Agreement shall be construed under the laws of the State of Florida. Venue for any action for the interpretation or enforcement of this Easement Agreement shall lie only in Duval County, Florida. This Easement Agreement may only be modified or supplemented in writing signed by the parties, or their heirs, successors and assigns, and any modification shall take effect only upon recordation of the signed instrument in the Public Records of Duval County, Florida

9. **Beneficiaries.** The terms of this Easement Agreement shall be binding and enforceable by Grantor, Grantee, and their respective successors and assigns who own the Riverwalk Parcel or the Benefited Property, respectively; it being understood that the rights and obligations herein shall run with the land.

10. **WAIVER OF RIGHT TO TRIAL BY JURY.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

*[the remainder of this page is intentionally left blank]*

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first written above.

**GRANTOR:**

**CITY OF JACKSONVILLE**, a  
body politic and corporate of the  
State of Florida

**WITNESSES:**

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

By: \_\_\_\_\_  
Lenny Curry  
Mayor

**ATTEST:**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**GRANTEE:**

**RD RIVER CITY BREWERY, LLC**, a  
Florida limited liability company

**WITNESSES**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, on behalf of the company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

**EXHIBIT A**

**Easement Area**

[To be added]

**EXHIBIT B**

**Benefited Parcel**

[To be added]

# EXHIBIT T

**EXHIBIT T**

Riverwalk Access Easement

Prepared by:

John C. Sawyer, Jr.  
Assistant General Counsel  
Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202

**NON-EXCLUSIVE PEDESTRIAN ACCESS EASEMENT AGREEMENT**

This NON-EXCLUSIVE PEDESTRIAN ACCESS EASEMENT AGREEMENT (“Easement Agreement”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between **CITY OF JACKSONVILLE**, a body politic and municipal corporation existing under the laws of the State of Florida (“**Grantor**”), whose mailing address is c/o Downtown Investment Authority, 117 W. Duval Street, Suite 310, Jacksonville, Florida 32202, hereinafter called the Grantor and **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, (“**Grantee**”) whose address is 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133.

RECITALS:

A. Grantor owns certain property known as the Southbank Riverwalk and a portion of such property is described on **Exhibit A** attached hereto and made a part hereof (the “**Riverwalk Parcel**”).

B. Concurrent with this Easement Agreement, Grantor has sold and conveyed to Grantee the land described in **Exhibit B** attached hereto and made a part hereof (the “**Benefited Parcel**”), which lies adjacent to the Riverwalk Parcel.

C. Grantee has requested, and Grantor has agreed to provide, a non-exclusive easement for pedestrian ingress, egress and passage over and across the Riverwalk Parcel, to benefit only the Benefited Parcel, according to the terms and conditions more particularly set forth herein.

NOW, THEREFORE, in consideration of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of Easement Rights.** Grantor hereby bargains, sells, grants and conveys unto Grantee, its successors and assigns, a perpetual non-exclusive easement over and across the Riverwalk Parcel for the purpose of pedestrian ingress, egress and passage only. The easement rights granted herein are only for the benefit of and appurtenant to the Benefited Parcel.

2. **Reserved Rights.** Notwithstanding anything in this Agreement to the contrary or the foregoing grant of easement rights, Grantor, for itself and its successors and assigns, hereby reserves and retains the right to (a) use, and to grant to others the right to use the Riverwalk Parcel for any lawful purpose or use not inconsistent with the grants made herein, (b) grant additional easements and licenses to others over, across, and under the Riverwalk Parcel, (c) alter, modify or replace all or part of the sidewalks and other improvements located within the Riverwalk Parcel in such a manner which does not materially diminish or prevent the access and use provided by the sidewalks as of the date of this Easement Agreement, and (d) construct and install additional or substitute improvements within the Riverwalk Parcel at any location and in any configuration that Grantor determines. Grantee acknowledges and agrees that the Riverwalk Parcel is a public walkway and Grantee's rights granted herein are co-equal to the rights of the public to use the Riverwalk Parcel as a public walkway. Without limiting the foregoing, (i) Grantor reserves the right to gate or otherwise block Grantee's access to the Riverwalk Parcel during times of high pedestrian activity when recommended by the Jacksonville Sheriff's Office, and (ii) Grantor and the JEA may exclusively use the Riverwalk Parcel to place piping, pumps and other equipment used in connection with the maintenance or repair of any utilities, during such times as the JEA or Grantor deems necessary for undertaking any such utilities maintenance or repair.

3. **Restrictions on Use of Riverwalk Parcel.** Grantee agrees that in utilizing the Riverwalk Parcel, Grantee will not unreasonably interfere with any existing or future use of the Riverwalk Parcel by the Grantor, its successors and assigns. Any property of Grantor disturbed by the Grantee in the exercise of the rights granted herein will be restored as soon as reasonably practical following such activity to its previously existing condition by the Grantee, at its sole cost and expense. Grantee shall not place or allow the placement of any items or structures on the Riverwalk Parcel (including without limitation portable toilets) at any time without prior written permission from the Grantor, which permission may be denied in the Grantor's sole discretion. Grantee shall only use the Riverwalk Parcel for pedestrian ingress and egress, and Grantor shall not at anytime interfere with the rights of the public to use the Riverwalk Parcel as a public walkway.

4. **Restrictions on Riverwalk Parcel Improvements.** For so long as there are a minimum of three hundred twenty five (325) Class A multi-family residential units on the Benefited Parcel, Grantor agrees not to construct, erect or build any structures or other improvements greater than six (6) feet in height on the Riverwalk Parcel, provided that the foregoing restriction shall not apply to any landscaping, cultural pieces, lighting fixtures, shade devices or signage.

5. **Maintenance; Self-Help.** Grantor shall maintain the Riverwalk Parcel in good condition and repair consistent with the standard of maintenance of the other areas of the Southbank Riverwalk. If Grantor shall default in the performance of its maintenance obligations hereunder, and shall not commence to cure such default within thirty (30) days after notice in writing delivered by Grantee specifying the default and proceed with reasonable due diligence to cure such default, then Grantee may at any time

thereafter cure such default, and Grantor shall reimburse Grantee for any reasonable amount actually paid by Grantee to cure such default. The self-help remedy described above in this paragraph shall be Grantee's sole and exclusive remedy for any default by Grantor for failure to maintain the Riverwalk Parcel as required under this Agreement. No default by Grantor shall limit or affect the rights of the public to access and use the Riverwalk Parcel as described herein.

6. **Indemnification.** Grantee shall indemnify, defend and hold harmless Grantor, its officers, agents, servants, employees, successors and assigns (the "**Indemnified Parties**") against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to the rights granted herein, except to the extent such claim, action, loss, damage, injury, liability, cost or expense shall have been caused by the gross negligence of the Indemnified Parties. This paragraph shall survive the expiration or earlier termination of this Easement Agreement.

7. **Notices.** Any notice required or permitted to be given pursuant to the terms of this Easement Agreement shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts, only to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notices shall be deemed given and received for all purposes under this instrument and shall be effective only upon receipt or when delivery is attempted and refused.

Grantor:

City of Jacksonville  
C/O Downtown Investment Authority  
117 W. Duval Street, Suite 310  
Jacksonville, Florida 32202  
Attention: Lori Boyer  
Email: [boyerl@coj.net](mailto:boyerl@coj.net)

Grantee:

RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, Florida 33133  
Attention: Steve Patterson  
Email: [spatterson@relatedgroup.com](mailto:spatterson@relatedgroup.com)

With a copy to:

Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Attn: General Counsel

With a copy to:

Greenberg Traurig, P.A.  
333 SE 2<sup>nd</sup> Avenue  
Miami, Florida 33131  
Attention: Kimberly S. LeCompte, Esq.  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America, by at least ten (10) days written notice to the other party.



8. **Attorneys Fees.** If any lawsuit, arbitration or other legal proceeding (including, without limitation, any appellate proceeding) arises in connection with the interpretation or enforcement of this Easement Agreement, each party shall be responsible for its own costs and expenses, including reasonable attorneys' fees, charges and disbursements incurred in connection therewith, in preparation therefor and on appeal therefrom.

9. **Miscellaneous.** This Easement Agreement shall be construed under the laws of the State of Florida. Venue for any action for the interpretation or enforcement of this Easement Agreement shall lie only in Duval County, Florida. This Easement Agreement may only be modified or supplemented in writing signed by the parties, or their heirs, successors and assigns, and any modification shall take effect only upon recordation of the signed instrument in the Public Records of Duval County, Florida

10. **Beneficiaries.** The terms of this Easement Agreement shall be binding and enforceable by Grantor, Grantee, and their respective successors and assigns who own the Riverwalk Parcel or the Benefited Property, respectively; it being understood that the rights and obligations herein shall run with the land.

11. **WAIVER OF RIGHT TO TRIAL BY JURY.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS EASEMENT AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS EASEMENT AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS EASEMENT AGREEMENT.

*[the remainder of this page is intentionally left blank]*

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first written above.

**GRANTOR:**

**CITY OF JACKSONVILLE**, a body politic and corporate of the State of Florida

**WITNESSES:**

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

(Sign) \_\_\_\_\_  
(Print) \_\_\_\_\_

By: \_\_\_\_\_  
Lenny Curry  
Mayor

**ATTEST:**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, Florida, a body politic and corporate of the State of Florida, on behalf of the City, who [\_\_\_\_\_] is personally known to me or  has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
NOTARY PUBLIC, State of Florida  
Serial Number (if any) \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**GRANTEE:**

**RD RIVER CITY BREWERY, LLC**, a  
Florida limited liability company

**WITNESSES**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF FLORIDA        )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company, on behalf of the company, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

**EXHIBIT A**

**Riverwalk Parcel**

[To be added]

**EXHIBIT B**

**Benefited Parcel**

[To be added]

# EXHIBIT U

**EXHIBIT U**

Marina Agreement

## MARINA OPERATING AND MAINTENANCE AGREEMENT

**THIS MARINA OPERATING AND MAINTENANCE AGREEMENT** (this “Agreement”) is effective as of \_\_\_\_\_, 2021 (the “Effective Date”) and is by and between **RD RIVER CITY BREWERY, LLC**, a Florida limited liability company authorized to do business in Florida (“Manager”), with an address of \_\_\_\_\_ and the **CITY OF JACKSONVILLE**, Florida, a consolidated State of Florida county and municipal corporation, (“City”), with an address of 117 W. Duval Street, Jacksonville, Florida 32202. City and Manager are collectively known as the “Parties” or singularly as a “Party”.

### RECITALS

**WHEREAS**, pursuant to that certain Sovereignty Submerged Lands Lease No. \_\_\_\_\_ which was recorded on \_\_\_\_\_, in Official Records Book \_\_\_, Page \_\_\_, Public Records of Duval County between City and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (as amended and renewed from time to time, the “Lease”), City is the lessee of certain submerged lands as more particularly described on **Exhibit A** attached hereto (the “Marina Parcel”);

**WHEREAS**, Manager, City and the Downtown Investment Authority have previously entered into that certain Redevelopment Agreement dated \_\_\_\_\_, 2021, (the “Redevelopment Agreement”), pursuant to which City and DIA will provide certain incentives to Developer to construct certain Improvements (as defined in the Redevelopment Agreement) consisting in part of 325 multi-family residential units, a structured parking facility with 500 parking spaces, a restaurant with 1,800 square feet of indoor space and certain outdoor space, as well as the City Marina Improvements (as defined in the Redevelopment Agreement) and certain Riverwalk Improvements on approximately 3.43 acres of real property located generally at 835 Museum Circle, Jacksonville, Florida, as more particularly described in the Redevelopment Agreement;

**WHEREAS**, it is the intention of City that the improvements located or to be located on and about the Marina Parcel serve as a first class public docking facility providing marine supplies and services required for boating, including, without limitation, wet slips, and marina office/sundry store (collectively, the “Marina Store”) for the use of and by the general public, but which shall exclude a boat ramp on City owned land to be operated by City (collectively, the “Marina”);

**WHEREAS**, certain portions of the Marina will be reconstructed pursuant to the Redevelopment Agreement;

**WHEREAS**, City has engaged Manager, and Manager has agreed, to manage, operate, maintain, and repair the Marina in accordance with the terms and conditions of this Agreement, and the parties acknowledge it is the intention of Manager to hire a qualified marina operator, subject to the terms of this Agreement (including any successors, the “Marina Operator”), to fulfill Manager’s obligations under this Agreement;



**WHEREAS**, City's intent in retaining Manager is to have a vital, financially successful and self-supporting marina by engaging Manager pursuant to the terms of this Agreement;

**WHEREAS**, City is the owner and/or grantee of an easement over that certain upland parcel of land more particularly described on **Exhibit B** attached hereto (the "Fuel System Parcel"), a portion of which is the location of two (2) above ground storage tanks (the "Storage Tanks") as well as fuel lines serving the same to be used by Manager in connection with the operation of the Marina fuel service and together with the Marina Parcel, the "Property"); and

**WHEREAS**, City finds that this Agreement serves both a public purpose and a municipal purpose.

**NOW, THEREFORE**, in consideration for the mutual covenants herein contained, Manager and City agree as follows:

### **AGREEMENT**

1. **Recitals.** The recitals set forth above are true and correct and are incorporated by reference into this Agreement as if fully set forth herein.
2. **Authority of Manager.** Manager shall have the authority to fully and completely supervise and direct the operations of the Marina and matters associated or related to the day-to-day operation of the Marina, in accordance with the terms of this Agreement.
3. **Term.** The term of this Agreement ("Term") shall commence on the Effective Date and continue to the date that is the fifth (5th) anniversary of the Effective Date, unless it is sooner terminated. Notwithstanding anything in this Agreement to the contrary, the City may terminate this Agreement for convenience at any time after the one (1) year anniversary of the Effective Date with one hundred eighty (180) days prior written notice to Manager upon payment to Manager of the Termination Fee (as hereinafter defined). The "Termination Fee" shall be the sum equal to funds expended by the Manager on the development of the City Marina Improvements (as defined in the Redevelopment Agreement) in excess of the City Marina Improvements Payment (as defined in the Redevelopment Agreement) and any capital improvements made to the Marina by the Manager in accordance with this Agreement. Such Termination Fee will be amortized by the proportion of time lapsed on the Term (exclusive of any extension options) as a percentage of the original five-year Term (i.e., three years lapsed on the original five-year Term equals sixty percent (60%) amortization and forty percent (40%) repayment of the funds expended by the Manager on the development of the City Marina Improvements.) Manager shall have no right to any revenues of any kind from the Marina upon termination of this Agreement. The City's repayment obligations under this section are subject to a lawful appropriation of funds therefore by the City Council.

The City may, in its sole discretion, extend the term of this Agreement for up to two (2), consecutive, five (5) year extension options that may be exercised by the City not less than one hundred twenty (120) days prior to the expiration of the then current term.

4. **City's Ownership of Improvements.** Notwithstanding anything herein to the contrary, City is and shall remain the sole and exclusive owner of all of the improvements located or to be located on the Marina Parcel from time to time. Upon the expiration of this Agreement, for any reason, all existing and any future installed fixtures, equipment, improvements and appurtenances attached to or built into the Marina Parcel in such a manner as to become part of the freehold estate whether or not by the expense of Manager, shall become and remain a part of and be surrendered to City at the expiration or earlier termination of this Agreement. Any furniture, furnishings, equipment or other articles of moveable personal property owned by Manager and located at the Marina shall be and remain the property of Manager and may be removed by it at any time during the term of this Agreement so long as Manager is not in default of any obligations under this Agreement and the same has not become part of the freehold estate.
5. **Services.** Manager hereby agrees to provide City with all of the duties and services typically associated with the management and operation of a first-class public Marina including, without limitation, those services set forth on **Exhibit C** attached hereto (collectively, the "**Services**"), for use of and by the general public. Manager shall provide the Services in compliance with the terms and conditions of this Agreement and all applicable Laws (as hereinafter defined). Manager shall provide the Services in a first-class professional manner in accordance with customary industry standards for guests, patrons and visitors of the Marina (collectively "**Patrons**"). Without limiting the foregoing, Manager shall provide the Services in conformity with good commercial practices that are customary within the industry. Manager shall perform its obligations under this Agreement consistent with the Marina Standards attached hereto as **Exhibit F** and incorporated herein by this reference. Manager plans to operate the Marina Store on real property owned by Manager. Upon termination or expiration of this Agreement, Manager shall retain ownership of such Marina Store and all personal property located therein, and agrees to enter into negotiations in good faith with the City for the use by the City or its designee for the use of the Marina Store in connection with the operation of the Marina.
6. **Revenue.** As compensation for the Services, Manager shall be entitled to retain all revenues generated by the Marina, including all amounts collected from Patrons for rentals and related services and merchandise sales and revenues from fuel sales. Manager shall reimburse City on a quarterly basis for fuel purchases actually incurred by the City for resale to patrons of the Marina or other use by Manager.
7. **Renting of the Marina.** Manager shall use its reasonable discretion in recommending and establishing the terms and conditions of occupancy of wet slips in the Marina to City; provided that, at all times Manager shall maintain a minimum of twenty (20) boat slips for public transient boat rental (the "**Transient Slips**"). Ten (10) of the Transient Slips shall be allocated for use not to exceed forty-eight (48) hours and the remaining ten (10) Transient Slips shall be allocated for use not to exceed four (4) hours. The Transient Slips shall be in a location approved by City. Manager shall enter into written rental agreements (the form of which shall be reviewed and approved in advance and in writing by City) with such tenants and Manager will collect rent from such tenants and shall be responsible for all rental receipts. Manager will set the rates for the wet slip rentals and linear feet space rentals based on commercially fair and marketable rates. The form of rental agreement shall be

prepared, reviewed, as appropriate by Manager and recommended to and provided by City for approval. Manager shall maintain all rental records of the Marina and provide a monthly summary report to City.

8. **Marketing and Advertising.** Manager shall establish the policies and procedures which it deems necessary or advisable for directing the marketing activities relating to the Marina. All advertising of the Marina, including signs, may be carried under Manager's name; provided that, Manager may not use the name of City without City's prior written consent. All advertising and marketing costs shall be borne solely by Manager.
9. **Repair, Maintenance and Improvements.** Manager shall repair and maintain the Marina to the standards set forth in **Exhibit F** attached hereto. Manager shall make and execute, or supervise and have control over the making and executing of, all decisions concerning the acquisition of furniture, fixtures and supplies for the Marina, and the purchase, lease or other acquisition of the same. Manager shall make and execute, or supervise and have control over the making and executing of, all decisions concerning the routine day-to-day maintenance and repair of the Marina, in connection with performance of routine day-to-day maintenance and repair, in accordance with the terms of this Agreement. Manager shall negotiate and supervise for the installation of all routine maintenance and capital improvements related to the Marina which Manager, in its reasonable discretion, deems necessary or appropriate or which may be required by Law, subject to City's prior written approval of the plans and specifications for any such capital improvements in its sole discretion. City shall be responsible for the repair of the Marina for acts of casualty not covered by insurance carried by the Manager and/or Marina Operator as required by this Agreement (provided such casualty is not due to the acts or omissions of Manager or Marina Operator or persons under their control), and for the replacement of the Marina at the end of its useful life. Notwithstanding anything to the contrary in this Agreement, the City shall have no financial obligations whatsoever with regard to the Marina Store, including but not limited any obligation to repair, maintain, improve or replace the same.
10. **Personnel.**
  - (a) Manager will recruit, employ, train, and properly supervise all employees necessary for the smooth and efficient operation of the Services pursuant to this Agreement and in a manner that is customary within the industry. All personnel employed by Manager will at all times and for all purposes be solely in the employment of Manager. All matters pertaining to the employment, supervision, compensation, and discharge of such employees are and will be the responsibility of Manager, subject to Manager's human resources policies.
  - (b) Manager's employees and Contractors in contact with the public shall perform their duties in an efficient and courteous manner. Manager shall insure all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times. Failure of an employee to do so shall be grounds for City to demand his or her removal from duties on the Marina property.
  - (c) Manager shall employ a qualified, full-time, on-site manager ("Marina Manager")

having experience in the management of a marina similar to the Marina who must be available during normal business hours and be delegated sufficient authority to ensure competent performance and fulfillment of the responsibility of the Services. Manager shall designate a replacement for the Marina Manager, during Marina Manager's vacation or other paid time off. Manager shall provide City with the name and telephone number of the Marina Manager or designated replacement who will be on call at all times for emergencies or other matters related to the operations under this Agreement.

- (d) Manager will ensure that all personnel have badges, logoed shirts, or uniforms with the name of the Marina and identifying them as personnel of Manager. No product or service advertisements will be included on such materials, although Manager's name or logo may be included.
11. **Regulations and Permits.** Manager will observe and comply with, and cause its employees and Contractors to observe and comply with, all federal, state and local laws, ordinances, rules, regulations, permits and policies, including, without limitation, as adopted by any governmental units or agencies having lawful jurisdiction (collectively, "Laws"), which may be applicable to the Marina, the Services, or this Agreement. Manager shall procure, at its sole cost and expense, all permits, licenses and approvals required with respect to the Services and the performance of this Agreement. City shall reasonably cooperate, at no cost to City, with Manager in Manager's efforts to procure and maintain all permits, licenses and approvals necessary to fulfill its obligations to operate the Marina pursuant to this Agreement, including but not limited to any Storage Tank registration requirements.
12. **City Approval.** Manager agrees it will obtain prior written approval from City prior to implementing changes on the following matters:
- (1) Changes from the original approved plans, activities, signage and graphics;
  - (2) Equipment installation requiring any facility modifications;
  - (3) Any use of City's name;
  - (4) Any improvements to be constructed on the Marina Parcel;
  - (5) Hours of daily operation;
  - (6) Uniforms to be used by the employees; and
  - (7) The decor of the Marina and all signs to be installed directed or displayed in or on the Marina property and any changes thereto.
13. **Reporting Requirements.** Manager shall submit a monthly written report to City containing the following information:
- (1) Capital improvements status report;
  - (2) All maintenance records;
  - (3) Insurance claims;
  - (4) Litigation;
  - (5) Safety and environmental incidents;
  - (6) Customer services issues (Manager shall promptly respond to customers);
  - (7) All leasing information as to boat slips;

(8) Any other information reasonably requested by City.

14. **Duties of City.** City shall cooperate with Manager in the performance of its duties under this Agreement and to that end execute such documents and instruments as Manager, in its reasonable judgment, deems necessary or advisable to enable it to carry out its management of the Marina and which have been approved by the City's Office of General Counsel.
15. **Impositions.** Manager shall pay, prior to delinquency at its sole cost and expense, all taxes and assessments, general and special, of any kind or nature whatsoever, related to the Marina, the Storage Tanks, or any improvements, personal property, equipment or other facility used in the operation or maintenance thereof; all utility rates and charges including those for water and sewer; all other governmental and non-governmental charges and any interest or costs or penalties with respect to any of the foregoing; and any taxes or assessments related to the revenue or income received from Manager's operation of the Marina, or any use or occupancy thereof, including, without limitation, the prevailing State of Florida sales and use tax.
16. **Special Events.** In the event that City hosts any festival or other special event drawing boaters to the Marina, Manager will cooperate with City and its committees with respect to planning activities and providing other support with respect to the Marina, at no cost to Manager, which at the direction of the City may include an advance reservation system.
17. **Lease.**
  - (a) Manager shall timely comply with all of the provisions of the Lease that are to be observed or performed by City as lessee thereunder, including, without limitation, the payment of any fees or other charges. Manager shall not, by any act or omission, cause City to be in violation of or in default under the Lease.
  - (b) To the extent that the Lease does not conflict with specific provisions hereof, the Lease is incorporated by this reference into this Agreement as fully as if completely restated herein. Manager shall be bound to City by all of the provisions of the Lease and shall perform all of the obligations and responsibilities that City by the Lease undertakes toward the lessor under the Lease with respect to the Marina.
  - (c) This Agreement is subject to and subordinate in all respects to the Lease. Manager represents that it has read and is familiar with all of the provisions of the Lease.
  - (d) Except as otherwise expressly set forth herein, City shall be responsible for the cost of any capital expenditures required in order to comply with the Lease, excepting such capital expenditures or other costs incurred as a result of the actions or omission of Manager or its designee.
  - (e) During the term of this Agreement, City shall use diligent efforts to apply for and diligently pursue renewal of the Lease prior to the end of the then current Term.
18. **Storage Tanks.**
  - (a) City shall provide and install new Storage Tanks and fuel lines in the location

shown on **Exhibit B** attached hereto, or otherwise as to be mutually agreed to be City and Manager, and remove the existing storage tanks City from their current underground location. Manager agrees that it accepts the Storage Tanks in their as-is, where-is condition and shall use the Storage Tanks solely for the purpose of using, operating, and maintaining and repairing the Storage Tanks in connection with providing fuel service at the Marina (the “Permitted Use”); provided, however, Manager shall not be obligated to perform any work relating to the Storage Tanks that is covered by any manufacturer’s warranty. Manager covenants and agrees that it will comply with all Laws and Environmental Laws concerning the operation, maintenance, use and inspection of the Storage Tanks including financial responsibility requirements except that City agrees to repair any damage to and replace as needed the Storage Tanks and undertake any associated assessment, remediation or removal activities required by Environmental Laws in connection with any Release of Hazardous Substances arising from or relating to damage to the Storage Tanks, provided that Manager shall at its sole cost and expense repair any damage caused by the acts or omissions of Manager or Manager’s employees, Contractors, agents, representatives (“Manager’s Agents”).

- (b) Manager shall have a non-exclusive right of entry upon and ingress and egress over and across that portion of the Fuel System Parcel that is necessary to access the Storage Tanks for the Permitted Use.
- (c) City shall remain the sole and exclusive owner and/or easement holder of the Fuel System Parcel, the Storage Tanks and all other improvements, fixtures, equipment and property located on the Fuel System Parcel.

19. **Environmental Liability.**

- (a) Definitions. The following terms, whenever used in this Agreement, shall have the following definitions:

“Environmental Laws” means any one or all of the laws and/or regulations of the Environmental Protection Agency or any other federal, state or local agencies, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq. (“CERCLA”); Public Law No. 96 510; 94 Stat. 1613; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq. (“RCRA”); the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 et seq.); the Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.); the Hazardous Material Transportation Act, as amended (49 U.S.C. § 1801 et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. §§ 135 et seq.); the Toxic Substance Control Act, as amended (15 U.S.C. § 2601 et seq.); the Clean Water Act; the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq.); the Federal Coastal Zone Management Act, as amended (16 U.S.C. §§ 1451 et seq.); the Occupational Safety and Health Act, as amended (29 U.S.C. §§ 651 et seq.); the Safe Drinking Water Act, as amended (42 U.S.C. §§ 300(f) et seq.), and any other federal, state, or local law, statute, ordinance, and regulation, now or hereafter in effect, and in



each case as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof, including, without limitation, any applicable judicial or administrative order, consent decree, or judgment applicable to the Property relating to the regulation and protection of human health and safety and/or the environment and natural resources (including, without limitation, ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species, and/or vegetation), including all amendments thereto, and any and all regulations promulgated thereunder, and all analogous local or state counterparts or equivalents, and any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, regulating, relating to or imposing liability or standards of conduct concerning any petroleum, petroleum byproduct (including but not limited to, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, and all other liquid hydrocarbons, regardless of specific gravity) natural or synthetic gas, products and/or hazardous substance or material, toxic or dangerous waste, substance or material, pollutant or contaminant, as may now or at any time hereafter be in effect.

“Environmental Requirement” means any Environmental Law, agreement or restriction (including but not limited to any condition or requirement imposed by any insurance or surety company or any governmental authority), as the same now exists or may be changed or amended or come into effect in the future, which pertains to health, safety, any Hazardous Substances, or the environment, including but not limited to ground or air or water or noise pollution or contamination, and underground or above ground tanks.

“Hazardous Substances” means any (a) any oil, petroleum product, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which cause the Property to be in violation of any Environmental Law; (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (c) any chemical, material or substance defined as or included in the definition of "waste," "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any Environmental Law including, but not limited to, CERCLA; RCRA; the Hazardous Materials Transportation Act, as amended, (49 USC § 1801 et seq.); the Federal Water Pollution Control Act, as amended (33 USC §§ 1251 et seq.); or (d) any other chemical, material or substance, exposure to which is prohibited or regulated by any governmental authority or agency.

“Release” and “Released” mean the presence of or any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, seeping, migrating, dumping or disposing of any Hazardous Substances (including the abandonment or discarding of barrels, drums, and tanks containing any Hazardous Substances) into the indoor or outdoor environment.

- (b) Violation of Environmental Requirements. Manager will not cause or permit any Hazardous Substances to be Released on, under or about the Property by Manager or its agents, employees, Contractors, and subcontractors in quantities or concentrations that violate any Environmental Requirement.
  - (c) Reporting. If, at any time, Manager becomes aware, or has reasonable cause to believe, that any Release or threatened Release of any Hazardous Substances has occurred or will occur at the Property, or Manager identifies or otherwise becomes aware of any noncompliance or alleged non-compliance with any Environmental Requirement by Manager at the Property, any threatened or pending claim related to the Property or any event or condition which could result in a claim under Environmental Law, Manager shall notify City immediately in writing of such circumstance and shall promptly thereafter include a full description of all relevant information. Manager shall, upon receipt, promptly deliver to City a copy of any report, audit, summary or investigation, whether prepared by or on behalf of Manager or by or on behalf any governmental authority or potential claimant, related to environmental conditions at the Property or the compliance status of the Property with respect to any Environmental Requirement.
  - (d) Contamination of Property. Manager shall, in compliance with all Environmental Requirements, promptly undertake and complete any and all investigations, testing, or abatement, clean up, remediation, response or other corrective action necessary to remove, remediate, clean up or abate any Release or threatened Release of any Hazardous Substances at or from the Property in violation of this Section. Manager shall not be allowed to use institutional or engineering controls as part of such action without the prior written consent of City; provided that City shall at its sole cost and expense, promptly undertake and complete, in compliance with all Environmental Requirements, any such Environmental Remediation related to the negligent acts or negligent omissions of City or City's employees, and agents, or located on the Fuel System Parcel not caused by the negligence or negligent acts or omissions of Manager (or a Marina Operator).
  - (e) Remediation Plan. Manager will submit to City a written plan for completing all Environmental Remediation required under this Section. City may review and inspect all such work at any time using consultants and/or representatives of its choice, at Manager's cost and expense. In the course of performing any Environmental Remediation required of Manager under this Section, Manager shall also comply with any and all Environmental Requirements pertaining to such work on the Property.
20. Indemnity. The indemnification obligations of Manager under this Agreement are as set forth on Exhibit D attached hereto and incorporated herein by this reference.
21. Insurance. Manager shall maintain, at Manager's sole cost and expense, the insurance coverages set forth on Exhibit E attached hereto and incorporated herein by reference in its entirety in full force and effect at all times throughout the term of this Agreement. In the event that Manager assigns this Agreement to a Manager Operator consistent with and as authorized by Section 36(g) hereof, the Marina Operator, not Manager, may maintain



such insurance coverages as set forth herein, and any assignee or subcontractor of any of the obligations of Manager hereunder shall sign a joinder and consent to this Agreement substantially in the form attached hereto as **Exhibit G**.

22. **Risk of Loss**. Manager expressly assumes all risk of damage or loss to its own property for any cause whatsoever, including, without limitation, any damage or loss that may occur to its merchandise, goods, or equipment by fire, theft, rain, water, hurricane or any act of God, or any act of negligence of any Patron or any person whomsoever, with the exception of any damage or loss to the Marina and Storage Tanks caused by the negligent acts or negligent omissions of the City.
23. **Hours of Operation**. The Marina property will be required to operate seven (7) days a week, three hundred sixty-five (365) days per year, including holidays, during those hours approved by City. The fuel dock shall be open during the same hours as the retail store located at the Marina selling sundries, ice and other necessities for Patrons, which at a minimum shall be daily from 8:00 a.m. to 6:00 p.m. City may require change in hours of operation if in the reasonable discretion of City such a change is desirable for providing the best service to the public. If it becomes necessary in Manager's reasonable opinion to cease operation of the Marina in order to protect the Marina and/or the health, safety and welfare of the guests and/or employees of the Marina for reasons of force majeure including, but not limited to, acts of war, insurrection, civil strife and commotion, labor unrest or acts of God, then Manager may close and cease operation of all or part of the Marina, reopening and commencing operation when Manager in its reasonable discretion deems that such may be done without jeopardy to the Marina, its guests and employees. Manager shall use best efforts to consult with the City prior to any closure, and in any event shall provide timely written notice to the City of any closure of the Marina. The Marina may also be voluntarily closed in connection with a maintenance or renovation project, with the reasonable approval of City.
24. **Termination of this Agreement**. This Agreement may be terminated by City immediately in the event of a default in the performance of this Agreement by Manager, which default shall remain uncured for thirty (30) days after such written notice of default which specifies the nature of such default, provided, however, that if such default be of a non-monetary nature and if it cannot reasonably be remedied within such thirty (30) day period, then such thirty (30) day period shall be deemed to be extended for such additional period(s) as may reasonably be required to remedy the same, not to exceed ninety (90) days, if Manager shall promptly commence to remedy such default upon receipt of written notice of default, and shall continue therewith with due diligence. In the event of a termination of this Agreement or upon the expiration of the Term, Manager agrees to take any and all actions reasonably requested by City in order to facilitate an orderly termination of the management of the Marina to a successor operator. Following the termination of this Agreement by either party within fifteen (15) calendar days, or earlier if determined by City, Manager shall remove all of its personal property not acquired by City under the terms of this Agreement. Any personal property of Manager not removed in accordance with this paragraph may be removed by City for storage at the cost of Manager or shall constitute a gratuitous transfer of title thereof to City for whatever disposition is deemed to be in the best interests of City. City shall not be liable to Manager for safekeeping for

Manager's personal property during or after termination of this Agreement.

25. **Limiting Legislative or Judicial Action.**

In the event that any municipal, county, state or federal body of competent jurisdiction other than City passes any law, ordinance or regulation in any way restricting or prohibiting the use of the Marina for purposes of this Agreement, this Agreement may be terminated by either Party upon thirty (30) days written notice to the other Party. In the event that any court or legislative body of competent jurisdiction issues an injunction substantially restricting or prohibiting the use of the Marina for the purposes of this Agreement, this Agreement may be terminated by either Party upon thirty (30) days written notice to the other Party.

26. **Public Records.**

To the extent that the Manager is acting on behalf of the City, Manager will comply with the requirements pursuant to Florida Statutes Section 119.0701, which include the following:

(a) The Manager will keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service provided herein.

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

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

(d) The Manager will meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of Manager upon termination of this Agreement for any reason, and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. When such records are stored electronically, Manager will provide the City all records stored electronically in a format that is compatible with the City's information technology systems.

27. **Retention of Records/Audit.**

The Manager agrees:

(a) To establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by the City under this Agreement.

(b) To retain, all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of six (6) years after completion of the date of final payment under this Agreement with respect to such project. If an audit has been initiated and audit findings have not been resolved at the end of six (6) years, the records shall be retained

until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the City.

(c) Upon demand, at no additional cost to the City, to facilitate the duplication and transfer of any records or documents during the required retention period.

(d) To assure that these records shall be subject at all reasonable times to inspection, review, copying, or audit by personnel duly authorized by the City, including but not limited to the City Council Auditors.

(e) At all reasonable times for as long as records are maintained, to allow persons duly authorized by the City, including but not limited to the City Council Auditors, full access to and the right to examine any of the Manager's Agreements and related records and documents, regardless of the form in which kept.

(f) To ensure that all related party transactions are disclosed to the City.

(g) To include the aforementioned audit, inspections, investigations and record keeping requirements in all subcontracts and assignments of this Agreement.

(h) To permit persons duly authorized by the City, including but not limited to the City Council Auditors, to inspect and copy any records, papers, documents, facilities, goods and services of the Manager which are relevant to this Agreement, and to interview any employees and subcontractor employees of the Manager to assure the City of the satisfactory performance of the terms and conditions of this Agreement. Following such review, the City will deliver to the Manager a written report of its findings and request for development by the Manager of a corrective action plan where appropriate. The Manager hereby agrees to timely correct all deficiencies identified in the corrective action plan.

(i) Additional monies due as a result of any audit or annual reconciliation shall be paid within thirty (30) days of date of the City's invoice.

(j) Should the annual reconciliation or any audit reveal that the Manager owe the City or DIA additional monies, and the Manager do not make restitution within thirty (30) days from the date of receipt of written notice from the City, then, in addition to any other remedies available to the City, the City may terminate this Agreement, solely at its option, by written notice to the Manager.

28. **Storm Preparedness.** Manager shall follow City's emergency evacuation and storm plan and protocols as may be supplemented by Manager, subject to City's approval.
29. **Rights Reserved to City.** All rights not specifically granted to Manager by this Agreement are reserved to City, and the designation of any particular remedy for City is without prejudice to any other relief available in law or equity and all such relief is reserved to City.
30. **Compliance with City's Internal Control Processes.** Manager agrees to comply with all applicable laws regarding procurement policies and procedures, budget policies and other

policies.

31. **Signage.** Manager shall abide by City's sign codes and ordinances. Any exterior signage must meet applicable City codes and ordinances. Manager shall install signage regarding method of communication with the dockmaster and availability of transient slips.
32. **Condemnation.**
  - (a) **Total Condemnation.** If during the Term or any extension or renewal thereof, all of the Marina is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or are sold to the condemning authority under threat of condemnation, this Agreement will terminate effective as of the date the condemning authority takes the Marina.
  - (b) **Partial Condemnation.** If less than all, but more than ten percent (10%) of the Marina is taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by the right of eminent domain, or is sold to the condemning authority under threat of condemnation, either party may terminate this Agreement by giving written notice to the other party within sixty (60) days.
  - (c) **Condemnation Award.** City will receive the entire award from any condemnation, and Manager will have no claim to that award or for the value of any unexpired term of this Agreement.
33. **Mechanic's Liens.** All work performed, materials furnished, or obligations incurred by or at the request of Manager shall be deemed authorized and ordered by Manager only, and Manager shall not permit any mechanic's liens or other liens to be filed against the Property or the improvements located thereon. Upon completion of any such work, Manager shall deliver to City final lien waivers from all Contractors, subcontractors and materialmen who performed such work. If such a lien is filed, then Manager shall within ten days either (1) pay the amount of the lien and cause the lien to be released of record, or (2) diligently contest such lien and deliver to City a bond or other security reasonably satisfactory to City. If Manager fails to timely take either such action, then City may pay the lien claim, and any amounts so paid, including expenses and interest, shall be paid by Manager to City within ten (10) days after City has invoiced Manager therefor. Nothing herein shall be deemed a consent by City to any liens being placed upon any portion of the Property or City's interest therein due to any work performed by or for Manager. Manager shall defend, indemnify and hold harmless City and its agents and representatives from and against all claims, demands, causes of action, suits, judgments, damages and expenses (including attorneys' fees) in any way arising from or relating to the failure by any Manager to pay for any work performed, materials furnished, or obligations incurred by or at the request of Manager. This indemnity provision shall survive termination or expiration of this Agreement.
34. **Management. Independent Contractor Status.** Manager is and shall remain an independent Contractor and is neither agent, employee, partner nor joint venturer of City. Manager shall not have or exercise any authority, express, implied or apparent, to act on

behalf of or as an agent of City for any purpose, and may not take any action which might tend to create an apparent agency, employer/employee, partnership or joint venture relationship between Manager and City. Manager's failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the Agreement at the discretion of City.

35. **No City Liability for Expenses.** Except as expressly set forth herein, City shall bear no cost or expense whatsoever with respect to the Marina or the Storage Tanks, or the operation or use thereof, it being understood that all such costs and expenses shall be solely borne by Manager.

36. **General Agreement Terms.**

(a) **Entire Agreement.**

The Parties agree that this Agreement sets forth the entire agreement between the Parties and there are no promises or understandings other than those stated herein. None of the provisions, terms or conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the Parties. This Agreement and the exhibits and attachments hereto and other documents and agreements specifically referred to herein constitute the entire fully integrated Agreement between the Parties with respect to the subject matter hereof and supersede all prior or contemporaneous verbal or written communication or agreements between the Parties excepting any past or contemporaneous written or verbal agreements expressly and clearly incorporated by reference within the four corners of this Agreement. This Agreement may only be amended by written documents, properly authorized, executed and delivered by both Parties hereto. This Agreement shall not be construed in favor of one party or the other. All matters involving this Agreement shall be governed by the laws of the State of Florida and the proper venue for any litigation arising hereunder will be a state or federal court located in Duval County, Florida. If City or Manager incurs any expense in enforcing the terms of this Agreement, whether suit is brought or not, each party shall bear its own costs and expenses including, but not limited to, court costs and reasonable attorneys' fees. The parties waive any rights each may have to a jury trial.

(b) **Headings.**

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

(c) **Severability.**

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





Attn: Corporation Secretary

To Manager: RD River City Brewery, LLC  
2850 Tigertail Avenue, Suite 800  
Miami, FL 33133  
Attn: Steve Patterson  
Email: [spatterson@relatedroup.com](mailto:spatterson@relatedroup.com)

With a copy to: Greenberg Traurig, P.A.  
333 S.E. 2nd Avenue  
Miami, FL 33131  
Attn: Kimberly LeCompte  
Email: [lecomptek@gtlaw.com](mailto:lecomptek@gtlaw.com)

**(g) Assignment, Subcontracting, Corporation Acquisitions and Mergers.**

No assignment, subcontract or other transfer of this Agreement shall be allowed including an assignment pursuant to a corporate acquisition or merger, without the prior written consent of City, which may not be unreasonably withheld, conditioned or delayed. All obligations and liabilities of Manager pursuant to this Agreement shall be binding upon the heirs, legal representatives, and successors of Manager regardless of any merger, corporate reorganization, or change of structure, ownership or name of Manager. City may not withhold its approval to the assignment or subcontract of this Agreement to a marina operator with demonstrated marina operation and management experience and sufficient financial strength, in each case with such evidence thereof in form and substance acceptable to the City in its reasonable discretion, to perform Manager's obligations hereunder. No assignment, subcontract or other transfer shall operate to release Manager from any liability or obligations under this Agreement. Nothing herein shall prohibit Manager (or an authorized Marina Operator) from contracting with service providers to provide certain of the services contemplated herein. In the event of any assignment, subcontract or other transfer of this Agreement, any such assignee or subcontractor shall sign a joinder and consent agreement in substantially the form attached hereto as **Exhibit G**, agreeing to be bound by the terms and conditions of this Agreement. No such assignee may further assign or transfer this Agreement.

**(h) Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. An executed counterpart delivered by electronic means, such as pdf, shall be valid and binding for all purposes.

**(i) Non-liability of City Officials.**

No member, official, officer, employee or agent of City shall be personally liable to Manager or to any person or entity with whom Manager shall have entered into any Agreement, or to any other person or entity, in the event of any default or breach by City, or for any amount which may become due to Manager or any other person or entity under the terms of this Agreement.

(j) **Compliance with State and Other Laws.**

In the performance of this Agreement, Manager must comply with any and all applicable federal, state and local laws, rules and regulations, as the same exist and may be amended from time to time. Such laws, rules and regulations include, but are not limited to, Chapter 119, Florida Statutes, (the Public Records Act) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract. City reserves the right to audit Manager's records relevant to this Agreement and pursuant to City policy.

(k) **Non-Discrimination Provisions.**

In conformity with the requirements of Section 126.404, *Ordinance Code*, Manager represents that it has adopted and will maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employment relations, throughout the term of this Agreement. Manager agrees that, on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records, by the Executive Director of the Human Rights Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement; *provided however*, that Manager shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. Manager agrees that, if any of its obligations to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract.

(l) **Contingent Fees Prohibited.**

In conformity with Section 126.306, *Ordinance Code*, Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Manager, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Manager, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, City shall have the right to terminate this Agreement without liability and, at its discretion to recover the full amount of such fee, commission, percentage, gift or consideration.

(m) **Ethics.**

Manager represents that it has reviewed the provisions of the Jacksonville Ethics Code, as codified in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, as codified in Chapter 126, *Ordinance Code*.

(n) **Conflict of Interest.**

The parties will follow the provisions of Section 126.110, *Ordinance Code*, with respect



to required disclosures by public officials who have or acquire a financial interest in a bid or Agreement with City, to the extent the parties are aware of the same.

(o) **Public Entity Crimes Notice.**

The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a Agreement to provide any goods or services to a public entity; may not submit a bid on a Agreement with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with any public entity; and, may not transact business in excess of \$35,000.00 with any public entity for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

(p) **Survival.**

Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and remain in effect. Without limiting the foregoing, all provisions relating to City's right to conduct an audit shall survive the expiration or termination of this Agreement.

(q) **Civil Rights.**

Manager agrees to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the City Ordinance Code, and further agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin.

(r) **Order of Precedence.**

In the event of any conflict between or among the provisions of this Agreement and those of any exhibit attached hereto or of any amendment, the priority, in decreasing order of precedence shall be: 1) any fully executed amendment; 2) provisions in this Agreement; and 3) exhibits to this Agreement.

[Signatures appear on following pages.]

**IN WITNESS OF THE FOREGOING**, the Parties have executed this Agreement as of the date first written above.

ATTEST:

**CITY OF JACKSONVILLE**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

By: \_\_\_\_\_  
Lenny Curry, Mayor

Form Approved:

\_\_\_\_\_  
Office of General Counsel

IN COMPLIANCE WITH the Ordinance Code of the City of Jacksonville, I do hereby certify that there is or will be an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement in accordance with the terms and conditions thereof and that provision has been made for the payment of monies provided therein to be paid.

\_\_\_\_\_  
Director of Finance

Signed, sealed and delivered  
in the presence of:

**RD RIVER CITY BREWERY, LLC**, a  
Florida limited liability company

\_\_\_\_\_  
(Printed Name)

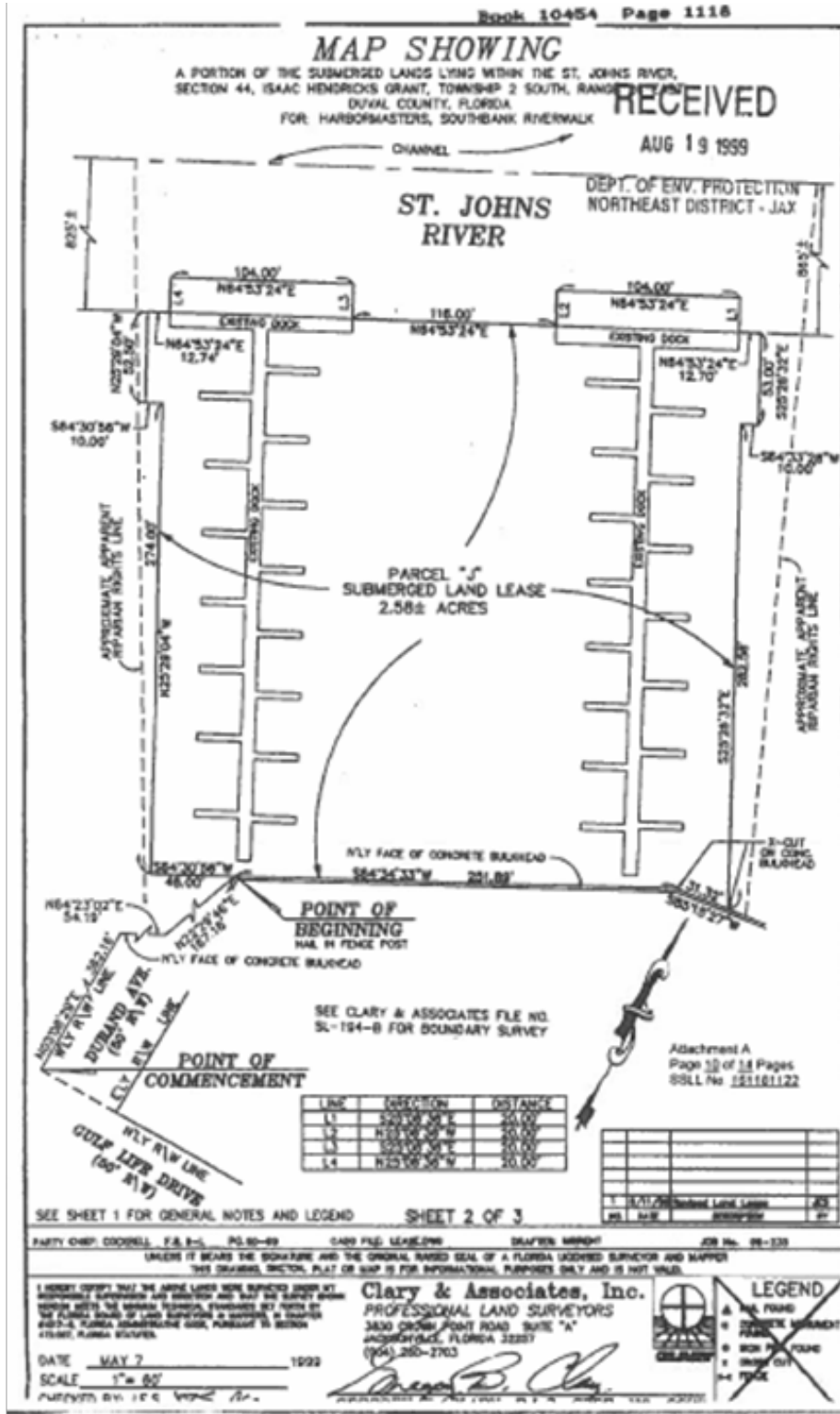
By: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name)

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**  
**MARINA PARCEL**





**EXHIBIT B**

**FUEL SYSTEM PARCEL**

That parcel of land found on the western side of the Project Parcel indicated as Parcel D in the image below that will be owned by the City and will serve as the location of the fuel tanks upon relocation.



**EXHIBIT C**  
**MANAGER SERVICES**

Manager shall provide the following services to City, at Manager's sole cost and expense:

1. Rental of transient and long-term wet slips and collection of revenues.
2. General cleaning and sweeping of debris, trash removal, security, and other actions necessary to keep the Marina in safe and sanitary condition.
3. All repairs and maintenance of the Marina, the Storage Tanks, and all related improvements and facilities, including, without limitation, docks, wet slips, mooring field, pump out boat/station, light fixtures, directional and informational signs and markings, electrical, mechanical, fuel dock and fuel operations, fire suppression and marina equipment systems, to keep the same in first class condition and repair and in compliance with all Laws, except as set forth in Section 18 of the Agreement.
4. Purchase of all supplies and equipment for use at the Marina.
5. Provide customer service and daily operations that are customary in the marina industry and consistent with the terms and conditions of the Agreement, including but not limited to full-service fuel attendants.
6. Provide signs that promote the Services and clearly display any applicable rates to the Patrons and provide any signs required by the Lease.
7. Any and all other services necessary to operate the Marina in a first-class manner consistent with customary industry standards.

**EXHIBIT D**  
**INDEMNITY**

Manager (the “**Indemnifying Party**”) shall hold harmless, indemnify, and defend the City of Jacksonville and the City’s officers, officials, employees and agents (collectively the “**Indemnified Parties**”) from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Party that causes injury (whether mental or corporeal) to persons (including death) or damage to property, arising out of or incidental to the Indemnifying Party’s performance of the Agreement, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Agreement contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages arising out of or relating to the operation or other activities performed by Manager or Manager Operator, or their respective employees or agents, in connection with the Agreement; and

3. Intellectual Property Liability, to the extent this Agreement contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services provided under this Agreement (the “Service(s)”), any product generated by the Services, or any part of the Services as contemplated in this Agreement, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Party shall, immediately, make every reasonable effort to secure within sixty (60) days, for the Indemnified Parties, a license, authorizing the continued use of the Service or product, or alternatively replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to the City, so that the Service or product is non-infringing.

If an Indemnified Party exercises its right under this Agreement, the Indemnified Party will (1) provide reasonable notice to the Indemnifying Party of the applicable claim or liability, and (2) allow Indemnifying Party, at its own expense, to participate in the litigation of such claim or liability to protect its interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by, any insurance provided pursuant to the Agreement or otherwise. Such terms of indemnity shall survive the expiration or termination of the Agreement.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

**EXHIBIT E**  
**INSURANCE**

Without limiting its liability under this Agreement shall at all times during the term of this **Agreement** procure prior to commencement of work and maintain at its sole expense during the life of this **Agreement** (and **Manager** shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

**Insurance Coverages**

Schedule	Limits
<b>Worker's Compensation Employer's Liability</b>	Florida Statutory Coverage \$ 500,000 Each Accident \$ 500,000 Disease Policy Limit \$ 500,000 Each Employee/Disease

This insurance shall cover the **Manager** (and, to the extent they are not otherwise insured, its Contractors and subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). The policy shall be endorsed to include NCCI Endorsement WC 00 02 01A, "Maritime Coverage Endorsement" or its equivalent. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

<b>Commercial General Liability</b>	\$2,000,000 General Aggregate \$2,000,000 Products & Comp.Ops. Agg. \$1,000,000 Personal/Advertising Injury \$1,000,000 Each Occurrence \$ 50,000 Fire Damage \$ 5,000 Medical Expenses
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Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits. **Manager** shall continue to maintain products/completed operations coverage for a period of three (3) years after the final completion of the **Project**. The amount of products/completed operations coverage maintained during the three-year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by **Manager** in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the **Work**.

<b>Automobile Liability</b> (Coverage for all automobiles, owned, hired or non-owned used in performance of the Agreement)	\$1,000,000 Combined Single Limit
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Such insurance shall be no more restrictive than that provided by the most recent version of the standard





its members, officials, officers employees and agents.

- D. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- E. Manager's Insurance Primary. The insurance provided by the Manager shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.
- F. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured Manager. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Agreement.
- G. Manager's Insurance Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Manager or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.
- H. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Manager shall relieve Manager of Manager's full responsibility to provide insurance as required under this Agreement.
- I. Notice. The Manager shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Manager, as applicable, shall provide said a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Manager under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provision: Prior to executing this Agreement, Manager shall present this Agreement and insurance requirements attachments Exhibits D and E to its Insurance

Agent Affirming: 1) That the Agent has Personally reviewed the insurance requirements of the Agreement Documents, and (2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of the Manager.

## EXHIBIT F

### Marina Standards

**Description** – Marina is to offer services for the boating public including wet slip storage, dock facilities and courtesy docks, sewage pump-out, utilities, and fuel docks, as described further below.

In general, the following definitions apply to these terms throughout the standards:	
Adequate:	As much as necessary for the intended duration of use.
Appropriate:	Suitable to the level of service specified in the Agreement.
Clean:	Free from dirt, marks, stains, or unwanted matter.
Neat:	Arranged in an orderly, tidy manner.
Operational:	In use or ready for use.
Sufficient:	Enough for the number of persons.
Well-maintained:	Kept in good order or condition.

#### FACILITY STANDARDS

##### Marina – Exterior

1. Pathways, Sidewalks, and Ramps - Pathways, sidewalks, and pedestrian ramps are free of obstructions. Surfaces are well-maintained and free of tripping hazards.
2. Lighting/Illumination - Lighting is adequate and appropriate. Light fixtures are well-maintained and operational. If the park is Night Sky designated, lighting is consistent with International Dark Sky Association requirements.
3. Public Signs - Public signs are appropriately located, accurate, and well-maintained. Permanent signs are consistent with NPS standards, and were approved prior to installation. Temporary signs are professional in appearance.
4. Trash/Recycling - Sufficient trash containers are conveniently located. Waste does not accumulate in trash containers to the point of overflowing. Refuse is stored in covered, waterproof receptacles in accordance with NPS standards. Market available recyclable products are collected and recycled. Central refuse collection sites are screened from public view.
5. Public Restrooms - Restrooms are clean, ventilated, illuminated, and well-maintained. Restrooms have hot and cold running water. Toilets, sinks, and urinals are clean, free of stains and chips, and operational. Toilet tissue and disposable towels or hand dryers are available. Soap is provided in bulk dispensers. Women's or unisex restrooms have a covered waste receptacle in every stall. The disposal containers are clean and emptied at least daily. A cleaning inspection log is maintained and posted.

##### Dock Facilities

1. Identification - Slips are clearly and uniformly marked by a permanently installed number. Utility pedestals and dock boxes are numbered to match the slip. Mooring buoys are clearly and uniformly marked.

2. Cleats - Cleats are properly placed and secured to the dock for use at each slip. No loose or missing cleats are evident. A sufficient number of properly sized cleats to secure the vessel are available.
3. Boat Bumpers/Rub Rails - Bumper materials are well-maintained. Cover materials are free of tears and properly secured to the dock. Rub rails are acceptable. Fastening bolts and screws are recessed and do not extend beyond the rails.
4. Flotation System - Systems provide adequate flotation and are well-maintained. Systems are sturdy and free of broken or uneven sections. Foam, if used, is encapsulated. Systems maintain docks level above the waterline.
5. Dock System - Fixed or floating dock systems are well-maintained.
6. Dock/Decking - Decking is clean, free of unnecessary obstructions and tripping hazards (e.g., pop-up screws, degraded wood), and well-maintained. Bull rail is well-maintained and sturdy enough to support visitor use.
7. Gangways/Bridges - Surfaces are non-slip, free of obstructions and tripping hazards, and well-maintained. Railings are well-maintained and sturdy enough to support visitor use. Utility lines necessary to service slips are contained.
8. Hoses - Hoses are adequately sized for their intended use and are free of leaks. Hose systems are consistent throughout the marina and are well-maintained. Hoses are coiled or orderly. Water hoses have backflow prevention devices.
9. Dock Boxes - Dock boxes are clean, well-maintained, ventilated, and securely constructed. Dock box placement allows for the passage of dock carts. A policy of not storing flammable materials (e.g., paint, solvents, deck stains) in dock boxes is prominently posted or featured in the slip rental agreement.

#### Fuel Docks:

1. Sales Operations - Only employees trained on standard operating procedures for fuel dock operations dispense fuel.
2. Emergency Action/Response Plan - Park-approved fuel dock emergency response plan is accessible. Staff is trained in emergency response plans.
3. Oil and Fuel Spills - Approved Spill Prevention, Control, and Countermeasure (SPCC) plan procedures are followed. Spills are cleaned up promptly. Staff is trained in SPCC.
4. Emergency Fuel Shutoff - Emergency shut off instructions are posted and accessible, and shutoff valve is located in compliance with NFPA standards.
5. Fire Extinguishers - Fire extinguishers are accessible and located in compliance with NFPA standards and local codes. Fire extinguishers are appropriately signed, with operating instructions and current inspection tags.
6. Fuel Dispensers - Dispensers, including nozzles and hoses, are operational and well-maintained. Dispensers have functioning fire/shear valves, and hoses are equipped with breakaway devices. Dispensers are locked when attendant is not on duty. Local, county, and state regulatory certificates for weights and measures are current and posted. Pump signs and decals are visible and well-maintained. Dispenser display screens are protected against UV damage and vandalism.
7. Access - Access to fuel docks is clearly marked to facilitate vessel queuing in an adequate space without adverse effect to pumping lines, other vessels, or resources.

8. Smoking Policy - Smoking is not permitted near the fuel dispensers, and signs are posted. No smoking policy is enforced. Hazardous
9. Required Public Safety Notices - Required safety notices are conspicuously posted around pump islands. Signs at fuel dispensers include “no smoking” signs, “switch off engine” signs, and “emergency fuel shut-off” signs. Signage requirements are listed in NFPA 303 - Fire Protection Standards for Marinas and Boatyards.
10. Fuel Lines - Fuel lines are well-maintained. Fuel lines are located and protected from physical damage. Sufficient lengths of oil-resistant flexible hose are used between the shore, the tank, and the dispensers as required by changes in water level. Emergency shut off valves are appropriately located in accordance with NFPA, and are posted.
11. Emergency Response and Spill Containment Equipment - Fire response equipment is provided at the fuel dock in accordance with NFPA standards, other applicable regulations, and the park. Spill response equipment is well-maintained and accessible. This equipment is specified in the concessioner's SPCC and Emergency Response plans and is adequate to respond to incidental and non-incident fuel and oil spills. The quantity of absorbent material equals a ratio of approximately three feet of boom to every foot of the largest boat within the marina. Equipment includes personal protective equipment for emergency response. Use of dispersants is approved by the park. Fuel attendants are trained as specified in the SPCC plan.
12. Materials Storage - Areas storing flammable or hazardous materials are clearly marked. Flammable liquids are not stored in battery charging or storage rooms. Hazardous materials near or over water have at least secondary containment.
13. Other Safety Equipment - Other required safety equipment, including eye-wash stations and emergency ladders, are operational and appropriately located.

#### Dock Safety

1. Emergency Lighting - Emergency backup battery or generator lighting systems are operational and well-maintained.
2. Slip Utility Connections – Electrical - Electrical outlets are marine-grade, hard wire attached feeds with working covers and are connected to a working ground fault interrupter.
3. Slip Utility Connections – Water - Water lines are operational, with working spigots and appropriately sized back flow preventers.
4. Security and Lighting - Adequate outside lighting is maintained throughout the marina for night operations. After scheduled hours, lighting is reduced to provide security only in the marina. Security system allowing access to slip areas is operational. Security personnel are provided as required.
5. Lifesaving Devices - At least one USCG approved, throw-type flotation device (with at least 60 feet of ¾-inch diameter rope attached or a reach pole) is accessible on the fuel dock and every 200 feet on other docks.
6. Access Ladders - Access ladders are well-maintained, secured, and appropriately located throughout the marina.
7. Boats - Boats are berthed in compliance with NFPA standards.

### **OPERATIONAL STANDARDS**

#### Accessibility

1. Accessibility - Facilities and services meet the requirements of the Americans with Disabilities and Architectural Barriers Acts and all other applicable laws related to accessibility.

#### Reservation Services

1. Availability - Reservation services are available via telephone during normal operating hours and via the internet 24/7.
2. Knowledge of Slip Rental Staff - Reservation agents provide accurate information about rates, slip rental policies and marina services, local attractions, access, etc. Matching information is available on the concessioner's website.
3. Payment Methods - Credit cards are honored and include MasterCard, Visa, American Express, and Discover. Debit cards and other payment methods (travelers' checks, personal checks, and gift cards) are accepted at the concessioner's discretion or at the direction of the Service.

#### Registration Services

1. Hours of Operation - Facilities and services are operated and provided in accordance with posted hours of operation. Hours of operation are prominently displayed at each facility.
2. Check-In/Out - Transient check-in/out is completed in a friendly and professional manner. The slip rental staff confirms slip type and length, duration of stay, departure date and check-out time, and method of payment. Slip rental staff also identifies any extra charges (utility add-ons, donations to friends, groups, and associations, etc.). Comment cards or the concessioner's comments website are included in the check-out material.

#### **Slip Management**

1. Maximum Boat Size - Boats do not exceed slip capacity. Length and beam measurements include all temporary and permanent appurtenances.
2. Occupant Management (Permanent) - Accurate and current records are maintained. Slip records include slip number and location, slip dimensions, and utilities. Slip renter records include boat owner's name, address, contact information, and authorized users. Boat records include boat name, hull identification number, model, year made, manufacturer, color, type, registration number and state, and boat insurance information. Park-approved rental agreements, conforming to applicable legal requirements, are executed for each slip rental.
3. Occupant Management (Transient) - Rental agreements include renter's name and contact information, authorized users, and boat identification details. Slips are checked and cleared of all lines and articles left by previous occupants. Approved rental agreements, conforming to applicable legal requirements, are executed for each slip rental.
4. Dock Checks - Daily dock checks are completed (decking is secure and free of tripping hazards; cleats, ropes, and utility lines are secure; bow pulpits and anchors are not overhanging the dock; and utilities are operational). Daily slip checks are completed (no illegal boats, boats do not appear to be in danger of sinking, burning, or breaking loose).
5. Waitlist - Waiting lists are maintained for the rental of slips and slip transfers. Requests are accommodated in the order they were received.

#### Outside Contractor Requirements

1. Allowable Activities - Only qualified contractors perform basic vessel maintenance. Moderate or significant vessel maintenance occurs outside the park unless allowed in the contract's maintenance plan.

#### Marina Safety

1. Marine Radio - Marina is equipped with licensed operational business band or VHF marine radio, with back up available. Staff is trained in radio use and communication protocols, and carries operational VHF marine radio units. Communication protocols are approved by the park.
2. Emergency Frequency and Protocol - A port operations frequency is maintained with a specific transmission channel and call sign.
3. Incident Reporting - Park-approved incident reports are completed and records are maintained. Required incidents are immediately reported to the park.
4. After Dark Procedures - Staff completes security rounds by walking all docks and support facilities. A security log noting any suspicious activities is maintained. Staff checks that gates, storage areas, and fuel areas are secure and/or locked.

#### Personnel

1. Staffing Levels - Facilities and services are sufficiently staffed to prevent avoidable delays in service.
2. Employee Attitude - Employees project a friendly and helpful attitude, and are capable and willing to answer customer questions (about both job and general park information).
3. Employee Appearance - Employees wear apparel and a name tag identifying them as concession staff. Employees present a neat and clean appearance.
4. Employee Training Programs - An active training program for employees in the development of necessary skills and procedures is implemented. Training emphasizes work performance and, as appropriate to the position, covers requirements such as technical training, emergency response, cleanliness, employee attitude, NPS philosophy and policy. Training is documented.
5. Management Availability - All marina facilities have a general manager or manager on duty at all times.
6. General Manager Credentials - The marina general manager possesses a strong background in the marina industry. Other certifications (Marina Operator, Marina Manager) are maintained as required.

#### **Other Services**

1. Private Sales - Private sales of boats in marina areas are not permitted. Boats do not display "For Sale" signs. No slips or moorings are rented that are used for promotional display or sale of boats or boat accessories.
2. Private Rentals - Private overnight rentals of boats in marina areas are not permitted.



## EXHIBIT G

### Joinder Agreement

Reference is hereby made to that certain Marina Operating and Maintenance Agreement, dated as of \_\_\_\_\_, 2021 (as amended, modified, supplemented or restated and in effect from time to time, the “Marina Agreement”), by and among the CITY OF JACKSONVILLE, a municipal corporation and a political subdivision of the State of Florida (the “City”) and RD RIVER CITY BREWERY, LLC, a Florida limited liability company (the “Manager”). All capitalized terms used herein without definition shall have the meanings assigned to such terms in the Marina Agreement.

#### 1. Joinder to Marina Operating and Maintenance Agreement.

The \_\_\_\_\_, a \_\_\_\_\_ company (the “Company”) hereby joins the Marina Agreement and agrees to comply with and be bound by all of the terms, conditions and covenants of the Marina Agreement applicable to and binding upon the Manager (as occasionally referenced therein). Without limiting the generality of the preceding sentence, the Company agrees that it shall be jointly and severally liable, together with the Developer, for the performance of all obligations of Manager under the Marina Agreement.

#### 2. Guaranty of Agreement.

By its signature below, the Company agrees to unconditionally guarantee the performance of all obligations of the Manager under the Agreement and in accordance with the terms of said Agreement and the documents attached thereto. The liability of the Company hereunder may be enforced without requiring the City or DIA to pursue enforcement against the Manager. This guarantee shall apply to all amendments, renewals, or extensions of the Agreement and the documents attached thereto.

#### 3. Company’s Representations and Warranties.

The Company hereby acknowledges, and represents and warrants, the following:

- (a) The execution, delivery and performance of this Joinder Agreement will not violate the organizational instruments of the Company or violate or result in a default (immediately or with the passage of time) under any contract, agreement or instrument to which the Company is a party or by which the Company is bound.
- (b) The Company has all requisite power and authority to enter into and perform this Joinder Agreement and the Marina Agreement (as modified herein) and has taken all proper and necessary action to authorize the execution, delivery and performance of this Joinder Agreement and the Marina Agreement (as modified herein).
- (c) This Joinder Agreement, when delivered, will be valid and binding upon the Company, and enforceable in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of

creditors' rights generally and by general equitable principles.

(d) The execution, delivery and performance by the Company of this Joinder Agreement do not require any approval or consent of, or filing with, any governmental agency or authority or other person.

(e) After giving effect to this Joinder Agreement, no Event of Default under the Marina Agreement has occurred and is continuing.

**4. Notice.**

The address of the Company for notices under the Marina Agreement is as follows:

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**5, Miscellaneous.**

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of Florida. This Joinder Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. The delivery of a counterpart by electronic means shall be valid for all purposes.

**IN WITNESS WHEREOF**, intending to be legally bound, the parties hereto have executed this Joinder Agreement as of the date first above written.

**COMPANY:**

By: \_\_\_\_\_  
Name:  
Title:

# EXHIBIT V



# EXHIBIT W

## EXHIBIT W

### Annual Survey

Please complete the form below as it relates to the project for which you may be entitled to receive DIA or State assistance. Should you have any questions, please call John Crescimbeni, Contract and Regulatory Compliance Manager, at (904) 255-5306.

Company Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Primary Contact Name: \_\_\_\_\_

Primary Contact Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date of Report: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**As of December 31, 20XX:**

#### I. CAPITAL INVESTMENT INFORMATION

Project Land Costs	[3] \$
Project Structure Costs	[4] \$
Project Equipment Costs	[5] \$
Other Costs	[6] \$
Total Project Costs (sum [3] through [6])	\$

#### II. ASSESSED PROPERTY VALUE

Assessed Value of Property on 2020 Duval County Property Tax Bill:	
Real Property	[7] \$
Personal Property	[8] \$
Total Assessed Value (sum [7] & [8])	\$
Amount of Taxes Paid: \$	Date Taxes Paid:

