

Second Amended and Restated Redevelopment Agreement

among

The City of Jacksonville,

The Downtown Investment Authority,

and

Shipyards Trustee Jacksonville, LLC

SECOND AMENDED AND RESTATED REDEVELOPMENT AGREEMENT

This **SECOND AMENDED AND RESTATED REDEVELOPMENT AGREEMENT** (this “Agreement”) is made this ____ day of _____, 2025 (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 **SHIPYARDS TRUSTEE JACKSONVILLE, LLC**, a Delaware limited liability company, as trustee under that certain Land Trust Agreement dated February 12, 2024 (inclusive of its designated Affiliate/s and beneficiaries, the “Developer”), by way of assignment from Shipyards Hotel Jacksonville, LLC.

RECITALS:

WHEREAS, the City, DIA and Iguana Investments Florida, LLC (“Iguana”), an Affiliate of Developer, previously entered into that certain Redevelopment Agreement dated November 24, 2021, as authorized by 2021-673-E (“Redevelopment Agreement”), and subsequently, the City, DIA and Shipyards Hotel, LLC entered into that certain Amended and Restated Development Agreement dated March 30, 2023 (“the Hotel Redevelopment Agreement”), and City DIA and Shipyards Office, LLC, entered into that certain Redevelopment Agreement dated March 30, 2023 (the “Office Building Redevelopment Agreement”) in each case as authorized by 2022-871-E for the City and DIA to provide certain economic incentives to Developer in connection with its intended development of the Project (as defined in the Redevelopment Agreement) in downtown Jacksonville; and

WHEREAS, in accordance with the terms of the Redevelopment Agreement, Iguana partially assigned the Redevelopment Agreement to Shipyards Hotel Jacksonville, LLC, a Delaware limited liability company (“Shipyards Hotel Jacksonville”) with respect to the Hotel Parcel, the Hotel Improvements and the City-owned Improvements (all as defined below); and

WHEREAS, Shipyards Hotel Jacksonville assigned its interest in and to the Redevelopment Agreement to Shipyards Trustee Jacksonville, LLC, as trustee under that certain Land Trust Agreement dated February 12, 2024 pursuant to that certain Assignment and Assumption Agreement (Hotel Parcel) dated February 12, 2024 as consented to by the DIA (the “Assignment”), which Assignment is hereby ratified and confirmed in all of its terms other than increasing the references to the amount of the REV Grant and Minimum Required Capital Investment as more particularly set forth herein. The City, DIA and The parties acknowledge and agree that pursuant to the terms of this Agreement and the Assignment that Shipyards Hotel Jacksonville retains all right, title and interest in and to the REV Grant and the Project Completion Grant.

WHEREAS, the Developer has requested and the DIA has agreed to amend and restate the Hotel Redevelopment Agreement pursuant to the terms and conditions as set

forth herein; this Agreement amends and restates the Hotel Redevelopment Agreement in its entirety with respect to the parties hereto and does not serve as a termination of the Hotel Redevelopment Agreement, which is hereby ratified and reaffirmed by the parties hereto.

Article 1. PRELIMINARY STATEMENTS

1.1 The Project.

(a) Overview. The Developer and/or its principals and Affiliates have submitted a proposal to the DIA to redevelop a portion of approximately 8 acres of City-owned real property, known generally as the Kids Kampus site located along the Northbank of the St. Johns River in Jacksonville, Florida (the “Project Parcel”), within the Downtown East Northbank Community Redevelopment Area, as further detailed on Exhibit A attached hereto. The development will include the construction of a luxury Four Seasons hotel with approximately 176 rooms (but no fewer than 170 rooms), approximately 25 Class A condominium units (with no fewer than 23 Class A condominium units) and approximately 39,100 square feet (but no less than 37,000 square feet) of commercial/retail, as further detailed on Exhibit B attached hereto (“Hotel Improvements”). The Developer, or a designated Affiliate, will also construct on behalf of the City and at the City’s cost a minimum 6,000 square foot Marina Support Building, together with an exclusive use outdoor patio area to the east of the building, and an enclosed back of house area, as well as the Event Lawn (each as defined below), improvements to Metropolitan Park Marina, consisting of the Marina Improvements, the Pier Improvements and Bulkhead Improvements, and certain Riverwalk Improvements, each to be funded by the City with cost overruns the responsibility of the Developer. The foregoing improvements are collectively referred to as the “Project,” as further detailed below. The minimum private Capital Investment for the Hotel Improvements shall be \$373,962,000.00.

(b) Hotel Improvements. The Developer or a designated Affiliate intends to construct a luxury Four Seasons hotel and certain related improvements (the “Hotel Improvements,” defined below) on an approximately 4.77-acre portion of the Project Parcel (the “Hotel Parcel”), as further described on Exhibit C attached hereto, that the City has conveyed to the Developer or its designated Affiliate pursuant to the Redevelopment Agreement. The Hotel Improvements will include a luxury Four Seasons hotel with no fewer than 170 rooms, no fewer than 23 Class A residential condominium units, no less than 9,500 square feet of flexible meeting space, no less than 37,000 square feet of restaurants, bars, rooftop amenities, sundry shops, retail space, river-view lounge (restaurant, pool, and decks located facing the riverfront), spa, wellness, and fitness center that will be open to the public and accessible from the Metropolitan Park Marina and Riverwalk, and a minimum of a 75,000 square foot structured parking facility, inclusive of drive aisles and service areas.

(c) City-Owned Improvements to be Constructed by Developer and Funded by the City. The Developer or its designated Affiliate shall construct on behalf of the City at the City's cost (with cost overruns the responsibility of the Developer or its designated Affiliate), the following improvements, each as defined below: (i) the Marina Improvements; (ii) the Bulkhead Improvements; (iii) the Pier Improvements, (iv) the Marina Support Building Improvements; and (v) the Riverwalk Improvements.

(d) Right of First Offer on Future Development Parcel. The City will also provide a right of first offer ("ROFO") to the Developer through June 30, 2025, with regard to an approximately 4.96-acre parcel of land located adjacent to and westerly of the Project Parcel (the "Future Development Parcel," defined below). The ROFO requires an annual payment that commenced on the Effective Date of the Redevelopment Agreement (pro-rated for any partial year at the end of the option term) to the City in the amount of \$50,000, until the ROFO is exercised by the Developer or its designated Affiliate or terminates or expires in accordance with its terms. The terms and conditions to a conveyance or ground lease, if any, of the Future Development Parcel pursuant to the ROFO shall be as negotiated by the Developer, DIA and City and as approved by the DIA Board and City Council. Any offer by Developer on the Future Development Parcel shall comply with the goals of the DIA BID and CRA Plan and describe in detail the proposed uses, square footage of each, minimum private capital investment and projection of tax revenue generated. Developer shall cause Iguana to execute an amendment to that certain Memorandum of Right of First Offer Agreement dated June 10, 2022 and recorded in Official Records Book 20320, Page 1387, in the public records of Duval County, Florida, referencing the expiration of the term of the ROFO as described in this Section 1.1 (the "ROFO Amendment").

(e) Additional Obligations of Developer. As a part of the Improvements, Developer shall construct a pedestrian and bicycle multi-use path to provide pedestrian, bicycle, and motorized access for vehicles such as scooters, golf carts and electric bicycles but not street licensed automobiles, trucks, etc. between East Bay St and the Riverwalk, on the easement (inclusive of any easement for the same granted by the developer under the Office Building Redevelopment Agreement) located between the Hotel Parcel and the Office Building Parcel. In the event the Developer elects to enter into the Marina Management Agreement (defined below), then, at the time of demand by the Florida Inland Navigational District or other applicable authority administering the FIND Grants the Developer shall pay the then current balance required to pay off the FIND Grants, estimated to be in the amount of \$625,725 as of the Effective Date hereof, but only to the extent required by the Florida Inland Navigational District or other applicable authority administering the FIND Grants, inclusive of any penalties imposed upon the City for failure to pay. For purposes of clarity, to the extent the City is required to pay the balance of the FIND Grants on or after execution date of the Marina Management Agreement, it is a Developer obligation to pay all such costs and penalties related thereto. The Developer also may elect to enter into the Marina Support Building Lease Agreement (defined below) in accordance with this Agreement, upon Substantial Completion of the Marina Support Building Improvements for the use and occupancy of

the Marina Support Building. The Developer shall also enter into a Park Partnership Agreement (defined below) with the City for Metropolitan Park and provide the amount of \$200,000 annually for a twenty-year term to be used for the maintenance and programming of Metropolitan Park.

(f) City/DIA Obligations. The DIA will coordinate the following activities and obligations of the City:

(1) Development Rights for the Future Development Parcel, if awarded to Developer, will be presented to the DIA Board for approval at the time of conveyance or ground lease of the Future Development Parcel.

(2) The City shall remove and relocate the Unity fiber cable and the Comcast cable that is located under the Service Road (as defined below) (the “Utilities”), and the City shall cooperate, at no cost or liability to the City, with Developer in the relocation of any other subsequently discovered utilities located on the Hotel Parcel.

(3) The City agrees not to oppose Developer’s request to JTA and FDOT to approve two signalized intersections along East Bay St. to provide access to the Hotel Parcel and the Office Building Parcel, provided that, the City shall not bear any costs or expenses related to such signalized intersections and the City shall not be obligated to modify other project designs or access points or incur any costs or expenses with respect thereto.

(4) As of the Effective Date hereof, City shall execute the ROFO Amendment and provide the same to Developer for recordation.

(g) City/DIA Incentives upon Substantial Completion of the Project. In consideration of Developer’s development of the Hotel Improvements, the DIA has recommended and the City and DIA agree to provide, as applicable, the following upon Substantial Completion of the Hotel Improvements; (i) a seventy-five percent (75%), up to \$56,581,200.00 REV Grant payable to the Developer or its designated Affiliates, or their respective successors and assigns, over a twenty (20) year period; and (ii) an up-to \$25,834,887.00 Project Completion Grant payable upon Substantial Completion of the Hotel Improvements in accordance with the terms of this Agreement, as applicable, payable to the Developer or its designated Affiliates.

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 approved the Redevelopment Agreement pursuant to its Resolutions 2021-07-01 and 2022-09-01, and has approved this Agreement pursuant to its Resolution 2025-08-08 (collectively, the “Resolution”) and the City Council authorized the Redevelopment Agreement pursuant to City Ordinances 2021-673-E and 2022-871-E and has authorized execution of this Agreement pursuant to City Ordinance 2025-815-E (collectively, 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 \$373,962,000.00.
- (b) The DIA has determined that the Project is consistent with the following Downtown Northbank Community Redevelopment Area Plan and Southside Community Redevelopment Area Plan Redevelopment Goals:
 - (i) Goal 2. Increase rental and owner-occupied housing Downtown, targeting diverse populations identified as seeking a more urban lifestyle.
 - (ii) Goal 3. Increase and diversify the number and type of retail, food and beverage, and entertainment establishments within Downtown.
 - (iii) Goal 4. Increase the vibrancy of Downtown for residents and visitors through arts, culture, history, sports, theater, events, parks, and attractions; and
 - (iv) Goal 7. Capitalize on the aesthetic beauty of the St. Johns River, value its health and respect its natural force, and maximize interactive and recreational opportunities for residents and visitors to create waterfront experiences unique to Downtown Jacksonville.

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 uses good faith efforts to provide contracting opportunities to small and emerging businesses in Duval County as described in Section 15.1.

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 (exclusive of costs attendant to the design and construction of the Marina Improvements, the Bulkhead Improvements, the Pier Improvements, the Marina Support Building Improvements, and the Riverwalk Improvements) the sum of EIGHTY-TWO MILLION FOUR HUNDRED SIXTEEN THOUSAND EIGHTY-SEVEN AND NO/100 DOLLARS (\$82,416,087.00).

1.7 **Availability of Funds.**

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. The DIA and the City, as applicable, agree to timely file legislation to request an appropriation by City Council on an annual basis the funds necessary to provide the REV Grant and the Project Completion Grant in accordance with the terms of this Agreement.

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 Mr. Shahid Khan or Developer.

2.2 **Base Year.**

The base year for purposes of the REV Grant authorized by this Agreement shall be the 2020 tax year.

2.3 **Bulkhead Improvements.**

Those certain improvements to the existing approximately 871 linear foot bulkhead adjacent to the Marina Parcel (the "Bulkhead") including: (a) an increased bulkhead height to create consistent finished elevations; (b) dredging, if dredging is necessary to replace the Bulkhead; (c) installation of sheet piles; and (d) installation of appropriate tie backs, to be funded by the City in the up to, maximum amount of \$6,921,680.00 with the Developer responsible for all costs in excess thereof.

2.4 **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.

2.5 **City Council.**

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

2.6 **City-owned Improvements.**

The Marina Improvements, Bulkhead Improvements, Pier Improvements, Marina Support Building Improvements, and Riverwalk Improvements to be undertaken by the Developer in accordance with this Agreement.

2.7 **Commence Construction.**

The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the Project or any portion thereof means the date when Developer or its designated Affiliate (i) has completed all pre-construction engineering and design and has obtained all necessary licenses, permits and governmental approvals to commence construction, has engaged the general contractors necessary so that physical construction of the Hotel Improvements (or applicable phase thereof) may begin and proceed to completion without foreseeable interruption, and (ii) has demonstrated it has the financial commitments and resources to complete the construction of the Project, and

(iii) has “broken ground” and begun physical, material construction (e.g., removal of vegetation or site preparation work or such other evidence of commencement of construction as may be approved by the DIA in its reasonable discretion) of such improvements on an ongoing basis without any Impermissible Delays (defined herein) but subject to Force Majeure Events (defined herein in Section 19.2).

2.8 Completion Guaranty.

That certain Guaranty of Completion dated June 9, 2022 and delivered by the Guarantor to the City and the DIA guaranteeing lien-free Substantial Completion of the Hotel Improvements. Contemporaneously with the execution of this Agreement, Guarantor shall execute and deliver to the City and the DIA a Consent, Modification and Reaffirmation of Guaranty as authorized by the Ordinance.

2.9 Construction Inspector.

“Construction Inspector” shall have the meaning as set forth in the Disbursement Agreements, as applicable.

2.10 DDRB.

The Downtown Development Review Board of the City.

2.11 Direct Costs.

Minimum private, Capital Investment, exclusive of land, soft costs (other than architecture, engineering, general liability and risk insurance, third-party project management, survey, and cost of inspections), and tangible personal property.

2.12 Disbursement Agreements.

Collectively, the Marina Improvements and Bulkhead Improvements Costs Disbursement Agreement, the Marina Support Building Costs Disbursement Agreement, and the Riverwalk Improvements Costs Disbursement Agreement.

2.13 Downtown Investment Authority.

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

2.14 Events Lawn.

A multipurpose events venue to be constructed as a part of the Marina Support Building Improvements, as further described on Exhibit E attached hereto.

2.15 FIND Grants.

Those certain Florida Inland Navigational District grants applicable to the Marina as referenced on **Exhibit F** attached hereto.

2.16 **FRDAP Grant.**

The Florida Recreation Development Assistance Program Grant, in the original, principal amount of \$1,500,000, that currently encumbers a portion of the Project Parcel.

2.17 **Future Development Parcel.**

That certain parcel of real property comprised of approximately 4.96 acres as further described on **Exhibit G** attached hereto, and on which the Developer or its designated Affiliate shall have a Right of First Offer as set forth in this Agreement.

2.18 **Horizontal Improvements.**

Those certain improvements related to the Hotel Improvements including environmental remediation, construction of building pads, installation and relocation of utilities (exclusive of the Utilities), curbs, gutters, stormwater management systems.

2.19 **Hotel Improvements.**

Those certain improvements to be constructed on the Hotel Parcel and Easement 1 (defined below), inclusive of a luxury Four Seasons hotel with no fewer than 170 rooms, 23 Class A condominium units, a restaurant, bar and rooftop amenities, a pool, outdoor poolside river front restaurant that is open to the general public, spa, wellness, and fitness center, no less than a 75,000 square foot structured parking facility, inclusive of drive aisles and service areas, access drive, and additional improvements as further described on **Exhibit B** attached hereto.

2.20 **Hotel Parcel.**

That certain parcel of real property consisting of approximately 4.77 acres as further described on **Exhibit C** attached hereto, on which the Hotel Improvements will be constructed by Developer or its designated Affiliate.

2.21 **Impermissible Delay**

The term “Impermissible Delay” means, subject to the provisions of Section 19.2, failure of Developer or its designated Affiliate to proceed with reasonable diligence with the construction of the applicable Improvements within the timeframe for completion contemplated in this Agreement, or after commencement 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 19.2. Notwithstanding the foregoing, any delay or cessation of any of the Improvements

as to which Developer or its designated Affiliate has been unable to secure the necessary permits and approvals after diligent efforts shall not be an Impermissible Delay and shall constitute a Force Majeure Event, as long as Developer or its designated Affiliate continues its diligent efforts to obtain such permits and approvals.

2.22 **Improvements.**

The Hotel Improvements, the Marina Improvements, the Bulkhead Improvements, the Pier Improvements, the Marina Support Building Improvements, and the Riverwalk Improvements. Any component of the Improvements set forth herein may be individually referred to as an “Improvement”.

2.23 **LWCF Grant.**

That certain Land and Water Conservation Fund State Assistance Program Grant applicable to the Marina.

2.24 **Marina.**

The existing Metropolitan Park Marina owned by the City with seventy-eight (78) transient boat slips available to the public (without rafting) for the mooring of pleasure boat and small craft located adjacent to the Project Parcel as the same are improved or maintained from time to time.

2.25 **Marina Improvements.**

Those certain improvements to the Marina to be owned by the City and as set forth on **Exhibit H** attached hereto (which shall be inclusive of fueling services and equipment if authorized under the Submerged Land Lease), to be funded by the City in the up to, maximum amount of \$13,170,939.00 with the Developer responsible for all costs in excess thereof.

2.26 **Marina Improvements, Bulkhead Improvements and Pier Improvements Costs Disbursement Agreement.**

That certain Marina Improvements, Bulkhead Improvements and Pier Improvements Costs Disbursement Agreement between the City and Shipyards Hotel Jacksonville dated March 31, 2023 and assigned by Shipyards Hotel Jacksonville to Shipyards Marina, LLC pursuant to that certain Assignment and Assumption of Public Infrastructure Capital Improvements Costs Disbursement Agreements dated March 31, 2023, as consented to by the City.

2.27 **Marina Management Agreement.**

At the election of Developer to be exercised no earlier than the date which is eighteen (18) months prior to the Completion Date of the Marina Improvements and no

later than the date which is six (6) months prior to the Completion Date of the Marina Improvements, Developer, or its designated Affiliate, shall have the option of entering into the Marina Management Agreement substantially in the form attached hereto as **Exhibit J** for the management and operation of the Marina, to be effective upon Substantial Completion of the Marina Improvements by the Developer. In the event the Developer elects to enter into the Marina Management Agreement, then, at the time of demand by the Florida Inland Navigational District or other applicable authority administering the FIND Grants, the Developer shall pay the then current balance required to pay off the FIND Grants in full, estimated to be in the amount of \$625,725 as of the Effective Date hereof, but only to the extent required by the Florida Inland Navigational District or other applicable authority administering the FIND Grants, inclusive of any fines penalties imposed upon the City for failure to pay.

2.28 **Marina Parcel.**

That certain parcel of submerged land governed by the Submerged Land Lease, as described generally on **Exhibit K** attached hereto.

2.29 **Marina Support Building.**

The Marina Support Building shall consist of not less than 6,000 square feet of retail, food service, support services for the Marina, including, at a minimum, the dockmaster office, showers and bathrooms for public use, and a ship's store providing sundries and convenience items for boaters, together with an exclusive use outdoor patio area to the east of the building, and an enclosed back of house area.

2.30 **Marina Support Building Costs Disbursement Agreement.**

That certain Marina Support Building Costs Disbursement Agreement between the City and Shipyards Hotel Jacksonville dated March 31, 2023 and assigned by Shipyards Hotel Jacksonville to Shipyards Marina, LLC pursuant to that certain Assignment and Assumption of Public Infrastructure Capital Improvements Costs Disbursement Agreements dated March 31, 2023, as consented to by the City.

2.31 **Marina Support Building Improvements.**

The Marina Support Building and the Events Lawn Improvements, as set forth on **Exhibit M** and **Exhibit E** attached hereto, to be funded by the City in the up to, maximum amount of \$9,875,667.00, with the Developer responsible for all costs in excess thereof.

2.32 **Marina Support Building Lease Agreement.**

At the election of Developer to be exercised no earlier than the date which is eighteen (18) months prior to the Completion Date of the Marina Improvements and no later than the date which is six (6) months prior to the Completion Date of the Marina

Improvements, Developer, or its designated Affiliate, shall have the option of entering into the Marina Support Building Lease Agreement substantially in the form attached hereto as **Exhibit N** for the occupancy and use of the Marina Support Building, to be entered into upon Substantial Completion of the Marina Support Building Improvements by the Developer.

2.33 **Marina Support Building Parcel.**

That certain parcel of real property as further described on **Exhibit O** attached hereto.

2.34 **Metropolitan Park.**

An approximately 14.32 acre multi-purpose park owned by the City and located adjacent to and easterly of the Project Parcel, located generally at 1410 East Bay St., Jacksonville, Florida.

2.35 **Minimum Required Capital Investment**

“Minimum Required Capital Investment” of the Hotel Improvements as defined in Section 6.1 below.

2.36 **Minimum Required Direct Costs**

“Minimum Required Direct Costs” as to the Hotel Improvements as defined in Section 6.1 below.

2.37 **Minimum Requirements.**

“Minimum Requirements” with regard to the Hotel Improvements shall mean:

- (i) construction of a luxury Four Seasons hotel with approximately 176 keys (but no fewer than 170);
- (ii) approximately 25 (but no fewer than 23) Class A condominium units;
- (iii) a minimum of a 75,000 square foot structured parking facility, inclusive of drive aisles and service areas;
- (iv) approximately 39,100 square feet (but no less than 37,000 square feet) of restaurants, bars, rooftop amenities, sundry shops, retail space, river club (restaurant, pool, decks, riverfront amenities), spa, wellness, and fitness center, all of which will be open to the public on a fee basis; and
- (v) approximately 10,600 square feet (but no less than 9,500) square feet of flexible meeting space.

The DIA Board shall have the discretion to permit deviation below each of the stated minimums in an amount not to exceed 10% provided such reduction does not result

in reduction in the Minimum Required Capital Investment, the Minimum Required Direct Costs, or a per unit or per square foot cost that exceeds the reasonable value limits used in underwriting.

2.38 **Reserved.**

2.39 **Office Building Parcel.**

That certain parcel of real property containing approximately one and five hundredths (1.05) acres as further described on **Exhibit Q** attached hereto.

2.40 **Office Building Redevelopment Agreement.**

That certain agreement among Shipyards Office, LLC, the City and the DIA, governing the construction of the Office Building Improvements (as that term is defined therein).

2.41 **Party or Parties.**

“Party” or Parties” means the Developer, DIA and the City, as applicable.

2.42 **Performance Schedule.**

The Performance Schedule, as defined in Article 4 hereof.

2.43 **Permit Approval.**

The term “Permit Approval” shall mean all permits and regulatory approvals needed for the construction of the Hotel Improvements, or other Improvements, inclusive of final 10-set and DDRB approval for such Improvements, as applicable.

2.44 **Pier Improvements.**

Those certain improvements necessary to replace the existing 260-foot concrete pier that runs along the seaward boundary of the Marina (the “Pier”) with a pier of substantially similar length, function, width and walkability as set forth on **Exhibit H** attached hereto, to be funded by the City in the up to, maximum amount of \$8,763,506.00, with the Developer responsible for all costs in excess thereof. In the event the City approves Plans and Specifications and Budget (each as defined in the Marina Improvements, Bulkhead Improvements and Pier Improvements Costs Disbursement Agreement) that results in the approved Budget for the Pier Improvements being less than \$8,763,506, the reduced amount as set forth in the approved Budget shall be deemed to be the Maximum Project Component Disbursement Amount (as defined in the applicable disbursement agreement) for the Pier Improvements. Upon the mutual agreement of the Developer and the City, any cost savings realized attendant to City approval of Plans and Specifications and Budget for the Pier Improvements may be applied to the Marina

Improvements, Bulkhead Improvements, and/or Riverwalk Improvements, which may be subject to City Council approval if a CIP amendment is necessary.

2.45 **Project.**

The Hotel Improvements located or to be located on the Hotel Parcel, and the Riverwalk Improvements, Marina Support Building Improvements, Marina Improvements, Pier Improvements and Bulkhead Improvements, and the obligations of the Developer under this Agreement, as more specifically described herein.

2.46 **Project Parcel.**

That certain, approximately 8-acre parcel of real property owned by the City and located generally at 1410 East Bay St., Jacksonville, Florida, as further described on **Exhibit A** attached hereto.

2.47 **Riverwalk Design Criteria.**

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

2.48 **Riverwalk Improvements.**

Those certain Riverwalk Improvements to be constructed by the Developer on the Riverwalk Parcel, as further described on **Exhibit S** attached hereto and incorporated herein by this reference, to be funded by the City in the up to, maximum amount of \$4,103,135.00, with the Developer responsible for all costs in excess thereof.

2.49 **Riverwalk Improvements Costs Disbursement Agreement.**

That certain Riverwalk Improvements Costs Disbursement Agreement between the City and Shipyards Hotel Jacksonville dated March 31, 2023 and assigned by Shipyards Hotel Jacksonville to Shipyards Marina, LLC pursuant to that certain Assignment and Assumption of Public Infrastructure Capital Improvements Costs Disbursement Agreements dated March 31, 2023, as consented to by the City.

2.50 **Riverwalk Parcel.**

An approximately 1.00-acre parcel of City-owned real property located adjacent to and along the southern boundary of the Hotel Parcel and Marina Support Building Parcel, comprised in part of a 50' parcel running parallel to the St. Johns River, inclusive of the bulkhead, as further described on **Exhibit U** attached hereto.

2.51 **ROFO.**

That certain right of first offer in favor of the Developer for the purchase of the

Future Development Parcel, as further detailed in Article 7 hereof.

2.52 Room Surcharge.

“Room Surcharge” shall have the meaning as defined in Section 6.3 below.

2.53 Service Road.

The service road located on the northern edge of the Office Building Parcel and the Hotel Parcel and adjacent to East Bay St. in the location depicted on **Exhibit DD**.

2.54 Submerged Land Lease.

That certain sovereignty submerged land lease between the City of Jacksonville and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida for the lease of the submerged lands underlying the Marina to the City, as the same may be amended or extended from time to time. City agrees to consult with Developer regarding any modifications or extensions of the submerged land lease.

2.55 Substantial Completion.

“Substantially Completed”, “Substantial Completion” or “Completion” means that, with respect to a particular Improvement (except for any space to be occupied by a tenant), a certificate of substantial completion has been issued by the contractor and verified by the architect of record, a temporary or permanent certificate of occupancy has been issued, if applicable, so that the applicable Improvement is available for use in accordance with its intended purpose including, as to the Hotel Improvements, a fully executed license agreement to operate a luxury Four Seasons branded hotel and residential property, without material interference from uncompleted work and subject to commercially reasonable punch list items, completion of tenant improvements and similar items.

2.56 Vertical Improvements.

“Vertical Improvements” means all of the buildings, structures, and other improvements, other than the Horizontal Improvements, to be constructed or installed on the Hotel Parcel.

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:

(a) Developer warrants, represents, and covenants with City and DIA that as of the Effective Date hereof:

(i) the execution and delivery hereof have 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; and

(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 or its designated Affiliates obligations under this Agreement (collectively, the "Performance Schedule"):

(a) Developer shall obtain permits as necessary to Commence Construction of the Horizontal Improvements, and otherwise as necessary to proceed without any Impermissible Delays to Substantial Completion thereof shall be obtained by November 30, 2022;

(b) Developer or its designated Affiliate shall Commence Construction of the Horizontal Improvements of the Hotel Improvements by December 31, 2022 (the “Horizontal Commencement of Construction Date”), and construction of the Hotel Improvements shall proceed without any Impermissible Delays through Commencement of the vertical improvements components of the Hotel Improvements, other than for Force Majeure Events.

(c) Developer or its designated Affiliate shall Commence Construction of the Vertical Improvements for the Hotel Improvements no later than September 1, 2023 (the “Vertical Commencement of Construction Date”), and construction of the Hotel Improvements shall proceed without any Impermissible Delays through Substantial Completion, other than for Force Majeure Events.

(d) Developer or its designated Affiliate shall have Substantially Completed construction of the Hotel Improvements by no later than June 30, 2027 (the “Completion Date”), subject to Force Majeure Events.

(e) Subject to Force Majeure Events and any extension granted pursuant to this Section 4.1 by the CEO of the DIA and the DIA Board, Developer or its designated Affiliate shall comply with the following performance schedule with regard to the City-owned Improvements:

- (i) Developer and the City shall enter into the Disbursement Agreements contemporaneously with the execution of this Agreement.
- (ii) The existing Marina and Riverwalk may be closed to the public by the Developer in connection with the reconstruction thereof no earlier than the later of January 15, 2023 or the date on which plans for the Bulkhead Improvements are fully permitted (the first date that the Marina is closed by the Developer being referred to herein as the “Marina Closure Date”).
- (iii) Developer shall Commence Construction of the Bulkhead Improvements within sixty (60) days of the Marina Closure Date, and shall thereafter diligently pursue permitting of the Marina Improvements and Pier Improvements and Completion of the Marina Improvements, Bulkhead Improvements, and Pier Improvements without any Impermissible Delays.

- (iv) Developer shall have Substantially Completed construction of the Marina Improvements, Bulkhead Improvements, Pier Improvements and Riverwalk Improvements no later than August 30, 2026.
- (v) Commencement of Construction of Riverwalk Improvements shall begin within sixty (60) days of Substantial Completion of construction of the Marina Improvements.
- (vi) Substantial Completion of the Marina Support Building Improvements shall be Completed on the earlier of the opening of the Hotel Improvements to customers or August 30, 2026.

The City's and DIA's obligation to fund the REV Grant and Project Completion Grant as set forth herein is subject to the condition that the Hotel Improvements (and as to a portion of the Project Completion Grant, the Office Building Improvements) be Substantially Completed by the Completion Date, subject to extension due to a Force Majeure Event as authorized by this Agreement or by an extension granted by the CEO of the DIA pursuant to the following paragraph. Except for extensions due to a Force Majeure Event, in no event may the Completion Date for any component be extended by more than one year without Council approval. Notwithstanding the foregoing, the Horizontal Commencement of Construction Date, the Vertical Commencement of Construction Date, and the Completion Date, and the performance dates set forth in Sections 4.1(e)(iii) – (vi) are subject to a day for day extension if by the applicable deadline: (a) all the Utilities have not been removed and relocated; and (b) Developer has not been provided a temporary construction easement to the Future Development Parcel consistent with Section 13.1(c) hereof.

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 or its designated Affiliate hereby agrees to undertake and complete the construction and development of the Hotel Improvements and City-owned Improvements in accordance with this Agreement and the Performance Schedule, and to comply with all of the Developer's obligations set forth herein. The CEO of the DIA may extend each component of the Performance Schedule for up to six (6) months in her sole discretion for good cause shown by Developer. Any change to the Commencement of Construction Date pursuant to this paragraph shall automatically result in a corresponding extension to the Completion Date. Extensions to any other dates within the Performance Schedule shall serve only to extend the individual date referenced.

Developer shall, and shall cause each of its contractors, employees, representatives, directors, officers, invitees and agents, to fully cooperate and coordinate with Shipyards Office, LLC, and not cause any interference with the Shipyards Office, LLC or the construction and installation of any and all improvements to be constructed

by Shipyards Office, LLC pursuant to the Office Building Redevelopment Agreement, including each of its components.

Notwithstanding the foregoing, if the City-owned Improvements are not Substantially Complete in accordance with this Performance Schedule, the City's and DIA's obligations to pay the Completion Grant and the REV Grant to Developer shall remain unaffected.

Article 5. DEVELOPMENT RIGHTS

5.1 Allocation of Development Rights.

Pursuant to the Redevelopment Agreement, the DIA has allocated from Table L-3: Shipyards and Metropolitan Park Entitlements contained in the Future Land Use Element of the City of Jacksonville 2030 Comprehensive Plan the following entitlements and development rights to the Developer:

as to the Hotel Parcel:

- (a) One hundred eighty-five (185) hotel rooms;
- (b) Twenty-seven (27) multi-family units; and
- (c) Forty-one thousand (41,000) square feet of commercial/retail

Developer may assign the above development rights but only for use on the Hotel Parcel. Any balance of unused development rights shall return to the DIA without further action by the DIA upon issuance of the last Certificate of Occupancy for the Hotel Improvements. Should the Developer fail to Commence Construction of the Vertical Improvements by the Vertical Commencement of Construction Date (as such date may be extended consistent with this Agreement), any unused development rights allocated for the Hotel Parcel shall return to the DIA without any further action by the DIA.

Article 6. CONSTRUCTION OF HOTEL IMPROVEMENTS BY DEVELOPER

6.1 Hotel Improvements.

Developer or its designated Affiliate shall construct the Hotel Improvements in accordance with the terms and conditions of this Agreement, and in accordance with **Exhibit B** attached hereto, respectively, inclusive of the applicable Minimum Requirements as set forth herein, and shall include open plaza and pool space fronting, and open to the Riverwalk, which as to the pool space may be fenced and gated to provide controlled entry from the Riverwalk to the Hotel Improvements, provided, however, that entry to the public areas of the Hotel Improvements from the Riverwalk by members of the general public shall not be prohibited.

Upon the written request of the Developer, the DIA Board shall have the discretion to permit a downward deviation from the Minimum Requirements of the Hotel Improvements in an amount not to exceed ten percent (10%) as to each component of such requirements, provided such reduction does not result in any reduction in the Minimum Required Capital Investment, the Minimum Required Direct Costs, or a per unit or per square foot cost that exceeds the reasonable value limits used in the underwriting evaluation of the Project by the DIA. The Hotel Improvements shall, in the aggregate, have a minimum, private Capital Investment (exclusive of any City or DIA contribution to the Project) in the amount of \$373,962,000 (the “Minimum Required Capital Investment”) and shall have at a minimum Direct Costs in the amount of \$321,357,000 (the “Minimum Required Direct Costs”).

6.2 Compliance with DDRB.

The design of the Hotel Improvements shall be substantially similar with renderings as set forth on **Exhibit B-1** attached hereto. The Hotel Improvements and all other improvements constructed on the Hotel Parcel shall comply with the Downtown Zoning Overlay and be consistent with the DDRB Final plans as approved under Application DDRB 2021-013, as the same may be amended or modified by: (i) DDRB in subsequent approvals requested by the Developer; or (ii) DDRB staff as authorized by Jacksonville Ordinance Code. Easements 1 and 2 and the Vehicular Access Easement (as defined below), which were granted to Developer by City at the June 10, 2022 closing for the Hotel Parcel and subsequently recorded (collectively for the purposes of this Article 6, the “Easements”), shall be deemed to be River View and Access Corridors as defined in Chapter 656, Part 3, Subpart H of the Jacksonville Ordinance Code. Due to the width of the Easements and adjacent Metropolitan Park, DIA has and will continue to support a deviation from the required River View and Access corridors as to the Hotel Parcel without impacting the REV Grant and Project Completion Grant authorized by this Agreement, provided both view and access are preserved on Easement 1 or otherwise relocated or modified by DIA pursuant to Section 13.1 herein.

6.3 Room Surcharge

The Parties agree that, to the extent permitted by law, the Developer or its designated Affiliate will enter into, or cause the operator of the Hotel Improvements to enter into, an agreement in form and substance reasonably acceptable to the City (the “Operator Agreement”), with the applicable parties which will bind the initial owner and all subsequent owners of the Hotel Improvements (collectively, the “Operator”) to levy, collect and remit to the City, on a monthly basis, a two percent (2%) surcharge on the nightly room rental rate actually charged and collected for each sleeping room in the Hotel Improvements (excluding any condominium units located therein) for a term of thirty (30) years (the “Room Surcharge”). The Operator Agreement shall, among other things, require that the Operator shall (a) charge the Room Surcharge to the overnight guests of the Hotel Improvements upon the commencement of the operation of the Hotel Improvements, and remit and pay the amount of the Room Surcharge to the City on a

monthly basis in arrears, by the fifteenth (15th) day of the following month; and (b) charge, collect remit the Room Surcharge to the City shall continue for a term of the earlier of thirty (30) years from the commencement of operation of the Hotel Improvements or for so long as a hotel is in operation on the Hotel Parcel, but in no event less than twenty (20) years. The Operator Agreement shall also require that if the Developer or its designated Affiliate sells or assigns its rights in and to the Hotel Improvements, the Developer shall cause any such purchaser or assignee to assume and be responsible for the obligations of the Developer and Operator pursuant to the terms of the Operator Agreement and that the City shall be a direct, intended third party beneficiary of all the terms and provisions of the Operator Agreement related to the Room Surcharge. This Section 6.3 shall survive the expiration or earlier termination of this Agreement. The parties acknowledge and agree that the Developer's obligation will be to enter into, or cause the Operator to enter into, and deliver to the City the Operator Agreement executed by all requisite parties, but each Operator will be responsible for charging the Room Surcharge and remitting the same to the City and Developer shall have no liability for such failure to collect or remit such Room Surcharge. Notwithstanding the foregoing, in the event a hotel is not in operation on the Hotel Parcel for at least twenty (20) years in accordance with this Agreement subject to Force Majeure Events and temporary closing for rebranding or refurbishment not to exceed six (6) months, the REV Grant will immediately terminate and the Developer shall make a lump sum payment of the Room Surcharge for such shortfall, calculated based on the present value of the average of the last three (3) years of Room Surcharge payments over the remaining years in such twenty (20) year period (the "Remainder Period") and subject to the applicable discount rate applied by the City's Finance and Administration Department (the "Room Surcharge Lump Sum Payment"). The Room Surcharge Lump Sum Payment shall be reduced on a dollar-for-dollar basis by the DIA's calculation, using the DIA's standard calculation methods, of the increase in ad valorem revenues that would be received by the City or DIA during the Remainder Period as a result of the change in use of the Hotel Parcel, including, without limitation, any increase in ad valorem revenues resulting from a termination of the REV Grant. The Room Surcharge shall be deposited by the City into a capital fund to be owned by the City and budgeted on an annual basis as mutually agreed by the Developer and the City, with such funds to be used by the City exclusively for capital maintenance and capital repairs to Metropolitan Park, the Riverwalk, the Marina, the Bulkhead, the Pier and the Marina Support Building, with such budget subject to the review and approval of City Council as a component of its annual budget for the City.

6.4 Park Partnership Agreement.

On or before Substantial Completion of the Hotel Improvements, Developer shall enter into a Park Partnership Agreement with the City regarding Metropolitan Park pursuant to the City's Park Partnership Program as set forth in Chapter 664, Part 7, of the City's *Ordinance Code*, pursuant to which Developer shall donate to the City a minimum of \$200,000 annually for a term of twenty (20) years to be used for the maintenance and programming of Metropolitan Park.

Article 7.
FUTURE DEVELOPMENT PARCEL; RIGHT OF FIRST OFFER

7.1 Future Development Parcel; Right of First Offer.

The City hereby provides the Developer a right of first offer to ground lease or purchase in fee simple the Future Development Parcel on the terms and conditions as set forth in this Article 7. As of the Effective Date of this Agreement, the Future Development Parcel is subject to a temporary right of first use in favor of the contractor performing the ongoing Hart Bridge Expressway and Talleyrand Connector construction project, which right expires on October 31, 2022 (the “Temporary Use Expiration Date”). City and DIA agree they will not entertain or initiate any disposition, lease, or further encumbrance of the Future Development Parcel (except as may be required in connection with the environmental condition of the Future Development Parcel), except from Developer, prior to the Temporary Use Expiration Date. As consideration for the ROFO, Developer shall make an annual \$50,000 ROFO fee payment to the City, which obligation commenced on November 24, 2021, the Effective Date of the Redevelopment Agreement, and continuing on each anniversary of the foregoing Effective Date of the Redevelopment Agreement thereafter (subject to the last payment being pro-rated on annual basis) until the exercise, expiration or earlier termination of the ROFO.

7.2 Terms of ROFO.

Pursuant to the Redevelopment Agreement, the Developer made its initial annual \$50,000 ROFO fee payment on or about the Effective Date thereof, and the Developer shall continue to have the right of first offer to lease or purchase the Future Development Parcel upon the following terms and conditions, for a term extending from the Effective Date of the Redevelopment Agreement through June 30, 2025 or the earlier expiration or termination of the ROFO. DIA agrees that prior to entering into negotiations with any other party or initiating a notice of disposition pursuant to Chapter 163, Florida Statutes, the DIA will first notify Developer of its desire to dispose of the Future Development Parcel and Developer shall have an exclusive period of ninety (90) days following the date of such notice to present DIA with a proposal for ground lease or fee simple purchase of the Future Development Parcel. Failure to respond or present an offer within such ninety (90) day period shall result in the immediate termination of the ROFO without further action.

The Developer may initiate the negotiated disposition process with DIA at any time prior to expiration or termination of the ROFO. Any offer on the Future Development Parcel shall comply with the goals as set forth in the DIA BID and CRA Plan and describe in detail the proposed uses, square footage of each, minimum private capital investment and projection of tax revenues generated. Only offers that generate property taxes from the development on the Future Development Parcel will be entertained. Developer is encouraged to focus density along East Bay St. that activates

toward the street and leaves as much open space as possible adjacent to the Riverwalk and connecting to the Marina Support Building Parcel and Events Lawn. Any economic or other incentives requested of the City and/or DIA shall be identified in the offer for negotiated disposition.

Any improvements to be constructed on the Future Development Parcel shall comply with the Downtown Zoning Overlay requirements without deviation, except as set forth in the following sentence, and be subject to DDRB approval. No deviation from the Downtown Zoning Overlay requirements shall be authorized unless requested at the time of consideration of the disposition requested by the Developer.

The Future Development Parcel excludes an out-parcel for a future permanent fire station office building and associated parking. In the event Developer designs an office building or parking facility that provides adequate ground floor office space for Jacksonville Fire and Rescue Division (“JFRD”) and parking for JFRD personnel acceptable to JFRD, the outparcel may be incorporated into Future Development Parcel and Developer will be credited with the budgeted cost for construction of the new permanent fire station when calculating the return on investment of any development proposal.

The Future Development Parcel is subject to a Brownfield Site Rehabilitation Agreement (“BSRA”). If the Future Development Parcel is to be acquired in fee simple, the disposition would be conditioned upon separation of the BSRA (or joining the BSRA if a separate BSRA is not authorized by the FDEP) based on applicable property boundaries, with Developer or its designated Affiliate becoming party to the BSRA solely as to the Future Development Parcel while the City remains responsible for the remainder of the property subject to the BSRA, all subject to FDEP approval. If the Future Development Parcel is to be acquired via a ground lease, the Developer shall maintain the option of becoming party to the BSRA, subject to FDEP approval, and the disposition will require the Developer to comply with the BSRA terms and conditions, inclusive of developing a Remedial Action Plan (“RAP”) or RAP Addendum/Modification and obtain approval therefor, and ultimately obtaining no further action approval from FDEP as to the Future Development Parcel, based upon implementation of the Remedial Action Plan and other applicable requirements of the FDEP.

The Developer or its designated Affiliate shall have the right to acquire riparian rights along the southerly border of the Future Development Parcel if Developer or its designated Affiliate is the successful bidder for the Future Development Parcel. Such riparian rights shall be conveyed by the City at the time of closing or ground lease of the Future Development Parcel to Developer or its designated Affiliate. The Developer or its designated Affiliate may obtain a submerged lands lease over such state-owned lands, subject to regulatory approval, and may elect to construct a private or public marina on such submerged lands fronting the Future Development Parcel.

The Future Development Parcel is bisected by an existing thirty-five foot (35') wide Easement reserved in Official Records Book 1687, Page 483, of the public records of Duval County. Developer may choose to make an offer only on that portion of the Future Development Parcel east of Easement 4 if Developer so elects.

A thirty (30) day notice disposition regarding the Future Development Parcel will be published at the time an offer is received from Developer and the terms thereof are approved by the DIA Board, which approval may be withheld in its sole discretion. Any disposition of the Future Development Parcel is contingent upon approval thereof by the DIA Board and City Council. Notwithstanding anything to the contrary in this Article 7, neither the City nor the DIA are obligated to accept any offer from the Developer and/or approve any disposition to Developer, and notice to the Developer of the rejection of its offer by the DIA Board shall result in the immediate termination of the ROFO without further action.

7.3 Stadium Parking Contingency.

(a) Developer acknowledges that the temporary construction easement over the Future Development Parcel and Retained Parcels 3 and 4 (as set forth on **Exhibit X** attached hereto and for the purposes of this Section, the “**TCE**”) and other rights that may be granted to Developer and Shipyards Office, LLC as contemplated by this Agreement or the Office Building Redevelopment Agreement (collectively, the “**Developer Rights**”) may impact the parking and other obligations that the City is required to provide to the Jaguars pursuant to the terms of the Jaguars Lease (defined below). As such, notwithstanding anything in this Agreement to the contrary, Developer shall cause the Jaguars to deliver to the City, upon the earlier to occur of (i) the execution of the TCE, or (ii) thirty (30) days from the date of Closing on the Office Building Parcel, an executed estoppel letter addressed to the City, in form and substance reasonably acceptable to the City, consenting to the granting of the TCE and Developer Rights and stating that the Jaguars waive all rights to claim any breach or default under the Jaguars Lease arising out of or related to the TCE or Developer Rights, and expressly waiving the Jaguars parking rights, if any, with respect to Lot H during the term of the TCE.

If the number of parking spaces available for use under the Jaguars Lease are reduced as a result of the TCE, Developer’s Rights or the Project, the City agrees to coordinate with the Jaguars, and Developer shall cause the Jaguars to coordinate with the City, regarding the number and location of the parking lots and parking spaces available to the Jaguars under the Jaguars Lease and all available replacement parking lots and parking spaces in the sports complex.

(b) The Developer’s right to exercise the ROFO for the Future Development Parcel is contingent upon the Developer causing the Jacksonville Jaguars LLC (“**Jaguars**”) releasing the City from any obligation to provide parking for the Stadium on Lot H as depicted on the ASM Global parking map attached hereto as **Exhibit V**. Attendant thereto, the Jaguars will need to coordinate with the City to amend the lease

between the City and the Jaguars dated September 7, 1993, as subsequently amended, prior to the Developer exercising the ROFO. If the City ultimately is required to provide replacement parking, the cost of the replacement land and any surface or structured parking will be calculated as part of the analysis of any potential disposition of the Future Development Parcel.

Article 8.
CONSTRUCTION OF MARINA IMPROVEMENTS,
BULKHEAD IMPROVEMENTS AND PIER
IMPROVEMENTS BY DEVELOPER

8.1 Developer Construction of Marina Improvements, Bulkhead Improvements and Pier Improvements.

Pursuant to the terms and conditions of this Agreement and related agreements attached thereto, and in consideration for the grants authorized hereby, Developer shall construct and Substantially Complete or cause to be Substantially Completed the Marina Improvements, Bulkhead Improvements and Pier Improvements. Upon Substantial Completion of the Bulkhead Improvements, it will remain the City's obligation to maintain, repair and replace such improvements at its sole cost and expense. The Marina Improvements will be reimbursed by the City on a no more frequently than monthly basis in the up to, maximum amount of \$13,170,939.00 (the "Marina Improvements Costs"); the Bulkhead Improvements will be reimbursed by the City on a no more frequently than a monthly basis in the up to, maximum amount of \$6,921,680.00 (the "Bulkhead Improvements Costs"); and the Pier Improvements will be reimbursed by the City on a no more frequently than a monthly basis in the up to, maximum amount of \$8,763,506.00 (the "Pier Improvements Costs") (with all cost overruns in each case funded by the Developer) pursuant to the Marina Improvements, Bulkhead Improvements and Pier Improvements Costs Disbursement Agreement, to be executed between the City and Developer contemporaneously with the execution of this Agreement. Developer shall complete or cause to be completed the Marina Improvements, Bulkhead Improvements and Pier Improvements in accordance with the Performance Schedule set forth in Section 4.1 of this Agreement, subject to Force Majeure Events and extensions that may granted by the CEO of the DIA pursuant to Article 4 herein. Notwithstanding any other provision herein to the contrary, in the event the Developer Substantially Completes the Marina Improvements and/or Bulkhead Improvements and/or the Pier Improvements for less than the full amounts of the Marina Improvements Costs, the Bulkhead Improvements Costs, or the Pier Improvements Costs, respectively, consistent with the respective approved Marina and Pier Plans and Bulkhead Plans (defined below), such cost savings may first be applied to any cost overruns attendant to the construction of the Marina Improvements and/or the Bulkhead Improvements and/or the Pier Improvements. Upon completion of the Marina Improvements, Bulkhead Improvements and Pier Improvements, any remaining cost savings may be applied to any cost overruns attendant to the construction of the Riverwalk Improvements. Thereafter, any cost savings shall inure to the benefit of the City. No closure of the Marina may occur prior to the date the Bulkhead Plans are

approved by the City and all permits for such work have been obtained by the Developer. Developer shall Commence Construction of the Marina Improvements, Pier Improvements and Bulkhead Improvements within sixty (60) days of the Marina Closure Date consistent with this paragraph.

8.2 Marina Improvements Design and Construction Approval.

(a) Prior to the construction of the Marina Improvements the City shall have received and approved the plans, specifications, and budget prepared by the Developer's design team for the Marina Improvements and the Pier Improvements (the "Marina and Pier Plans"). For purposes of clarity, there shall be a separate budget prepared for review and approval by the City and DIA for each of the Marina Improvements and the Pier Improvements. The Marina and Pier Plans shall be complete working drawings and specifications for construction of the Marina Improvements and Pier Improvements, and in connection with the development thereof, the Developer shall follow the applicable permitting, review and approval process as set forth in the Jacksonville Ordinance Code. In addition, the Marina and Pier Plans shall be subject to the review and approval of the CEO of the DIA, the Director of the Public Works Department and the Director of the City's Department of Parks, Recreation and Community Services in their reasonable discretion. City representatives shall have reasonable access to the Marina Improvements during construction to confirm that the Marina Improvements are constructed consistent with the approved Marina and Pier Plans.

(b) Prior to the construction of the Bulkhead Improvements, the City shall have received and approved the plans, specifications, and budget prepared by the Developer's design team for the Bulkhead Improvements (the "Bulkhead Plans"). The Bulkhead Plans shall be complete working drawings and specifications for construction of the Bulkhead Improvements, and in connection with the development thereof, the Developer shall follow the applicable permitting, review and approval process as set forth in the Jacksonville Ordinance Code. In addition, the Bulkhead Plans shall be subject to the review and approval of the CEO of the DIA, the Director of the City's Public Works Department and the Director of the City's Department of Parks, Recreation and Community Services in their reasonable discretion. City representatives shall have reasonable access to the Bulkhead Improvements during construction to confirm that the Bulkhead Improvements are constructed consistent with the approved Bulkhead Plans.

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 the City or the DIA regarding: (a) the accuracy or reasonableness of the Marina Improvements or Riverwalk Improvements budget; (b) the feasibility or quality of the construction documents for the Marina 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 Marina 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 9.
CONSTRUCTION OF RIVERWALK
IMPROVEMENTS BY DEVELOPER

9.1 Construction of Riverwalk Improvements by Developer.

Pursuant to the terms and conditions of this Agreement and related agreements attached thereto, and in consideration for the grants authorized hereby, Developer shall construct and Substantially Complete or cause to be Substantially Completed the Riverwalk Improvements. The Riverwalk Improvements will be reimbursed by the City on a no more frequently than monthly basis in the up to, maximum amount of \$4,103,135.00 (with all cost overruns funded by the Developer) pursuant to the Riverwalk Improvements Costs Disbursement Agreement, to be executed between the City and Developer contemporaneously with this Agreement. Developer shall construct and Substantially Complete or cause to be Substantially Completed the Riverwalk Improvements in accordance with the Performance Schedule set forth in Section 4.1 of this Agreement, subject to Force Majeure Events and extensions that may granted by the CEO of the DIA pursuant to Article 4 herein, and subject to the separate deadline for Substantial Completion of the Riverwalk Landscaping Improvements, as set forth in the Riverwalk Improvements Costs Disbursement Agreement. The City shall own the Riverwalk Improvements and Developer shall have all maintenance obligations attendant thereto, exclusive of the Bulkhead. No closure of the Riverwalk may occur prior to the date the Bulkhead Plans are approved by the City and all permits for such work have been obtained by the Developer. Developer shall Commence Construction of the Riverwalk Improvements within sixty (60) days of Substantial Completion of the Marina Improvements.

9.2 Riverwalk Improvements Design and Construction Approval.

Prior to the construction of the Riverwalk Improvements, the City shall have received and approved the plans, specifications, and budget (the “Riverwalk Plans”) prepared by the Developer’s design team for the Riverwalk Improvements. The Plans shall be complete working drawings and specifications for construction of the Riverwalk Improvements, and in connection with the development thereof, the Developer shall follow the applicable permitting, review and approval process as set forth in the Jacksonville Ordinance Code. In addition, the Riverwalk Plans shall be subject to the review and approval of the CEO of the DIA, the Director of the City’s Public Works Department and the Director of the City’s Department of Parks, Recreation and Community Services in their reasonable discretion. City representatives shall have reasonable access to the Riverwalk Improvements during construction to confirm the Riverwalk Improvements are constructed consistent with the approved Riverwalk Plans. As set forth in the Riverwalk Improvements Costs Disbursement Agreement, the costs for the Riverwalk Improvements will be reimbursed by the City in the up-to, maximum

amount of \$4,103,135.00 (the “Riverwalk Improvements Costs”), with any costs in excess thereof the responsibility of the Developer.

9.3 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 or 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 10. CONSTRUCTION OF MARINA SUPPORT BUILDING IMPROVEMENTS BY DEVELOPER

10.1 Construction of Marina Support Building Improvements by Developer.

Pursuant to the terms and conditions of this Agreement and related agreements attached thereto, and in consideration for the grants authorized hereby, Developer shall construct and Substantially Complete, or cause to be Substantially Completed, the Marina Support Building Improvements. The Marina Support Building Improvements will be reimbursed by the City on a no more frequently than monthly basis in the up to, maximum amount of \$9,875,667.00 (“Marina Support Building Improvements Costs”) (with all cost overruns funded by the Developer) pursuant to the Marina Support Building Improvements Costs Disbursement Agreement, to be executed between the City and Developer contemporaneously with this Agreement. Developer shall construct and Substantially Complete or cause to be Substantially Completed the Marina Support Building Improvements in accordance with the Performance Schedule set forth in Section 4.1 of this Agreement, subject to Force Majeure Events and extensions that may granted by the CEO of the DIA pursuant to Article 4 herein. Notwithstanding any other provision herein to the contrary, in the event the Developer Substantially Completes the Marina Support Building Improvements for less than the full amount of the Marina Support Building Improvements Costs consistent with the approved Marina Support Building Plans, such cost savings may first be applied to any cost overruns attendant to the construction of the Marina Improvements, the Bulkhead Improvements or the Pier Improvements. Thereafter, any cost savings shall inure to the benefit of the City.

10.2 Marina Support Building Improvements Design and Construction Approval.

Prior to the construction of the Marina Support Building Improvements, the City shall have received and approved the plans, specifications, and budget (the “Marina Support Building Plans”) prepared by the Developer’s design team for the Marina Support Building Improvements. The Plans shall be complete working drawings and specifications for construction of the Marina Support Building Improvements, and in connection with the development thereof, the Developer shall follow the applicable permitting, review and approval process as set forth in the Jacksonville Ordinance Code. In addition, the Marina Support Building Plans shall be subject to the review and approval of the CEO of the DIA, the Director of the City’s Public Works Department and the Director of the City’s Department of Parks, Recreation and Community Services in their reasonable discretion. City representatives shall have reasonable access to the Marina Support Building Improvements during construction to confirm the Marina Support Building Improvements are constructed consistent with the approved Marina Support Building Plans.

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 the City or the DIA regarding: (a) the accuracy or reasonableness of the Marina Support Building Improvements or Marina Support Building Improvements budget; (b) the feasibility or quality of the construction documents for the Marina Support Building 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 Marina Support Building 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.

10.4 As Built Surveys

Developer shall deliver to the DIA an as-built survey for the Marina Improvements, Bulkhead Improvements, Pier Improvements, Marina Support Building Improvements (inclusive of the Event Lawn) and Riverwalk Improvements within sixty (60) days after Substantial Completion thereof, and as to any other improvements that are to be owned by the City or are constructed on City-owned property.

**Article 11.
REV GRANT**

11.1 Recapture Enhanced Value Program; Amount.

The DIA shall make a Recapture Enhanced Value grant (“REV Grant”) to the Developer, in a total amount not to exceed \$56,581,200.00, partially payable beginning in

the first year following the Substantial Completion of the Hotel Improvements, 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 Northbank East CRA TIF (as applicable, the “Final Year”), all as more fully described below in this Article 11; provided however, the City may agree to assume the obligation to pay the REV Grant in accordance with this Agreement after 2045 (payable in 2046) and following expiration or termination of the Northbank East CRA TIF.

11.2 Payments of REV Grant.

The REV Grant shall be paid by the DIA to the Developer by check, in annual installments determined in accordance with Section 11.3, 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 Developer, whichever occurs first. The DIA shall have no liability for any REV Grant in excess of the amount stated in Section 11.1 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 11.3 shall not be subject to reduction or repayment.

The Developer and the City intend to undertake certain traffic calming infrastructure improvements on Bay Street (“Traffic Calming Improvements”) that are not under the purview of the Costs Disbursement Agreements attached to this Agreement. Developer and City will work together in good faith to negotiate a Funding Agreement to complete the Traffic Calming Improvements that will comply with all state and local laws, rules and regulations, including but not limited to the Consultant’s Competitive Negotiation Act, subject to City Council approval by subsequent legislation. The City agrees to utilize any funds received from the State of Florida for purpose of the Traffic Calming Improvements (the “State Grant”) towards the design, construction and permitting thereof. Developer agrees to fund the shortfall in the cost to design, permit and construct the Traffic Calming Improvements. It is anticipated that the Traffic Calming Improvements will be constructed in multiple phases. At such time as the aggregate costs to be contractually incurred by the City exceeds the amount of the State Grant, Developer will fund any such shortfall prior to contract execution by the City. Subject to the terms and conditions of the Funding Agreement and compliance with all applicable laws, including but not limited to the State of Florida Consultants’ Competitive Negotiation Act, City agrees that the REV Grant authorized hereby shall increase in an amount equal to (a) the amount Developer funds to the City to cover such shortfall and (b) the amount Developer spends for design and engineering costs of the Traffic Calming Improvements as documented to the DIA. In the event the Developer’s contribution toward the Traffic Calming Improvements (exclusive of the State Grant) is less than \$6,000,000, the maximum amount of the REV Grant shall automatically be reduced in an amount equal to the sum of \$6,000,000 minus the Developer’s actual out-of-pocket contribution to the Traffic Calming Improvements. The aggregate reduction in the maximum amount of the REV Grant pursuant to this paragraph shall not exceed

\$6,000,000. Notwithstanding any other provision herein to the contrary, any costs for the Traffic Calming Improvements in excess of the sum of \$6,000,000 and the State Grant (if received by the City) is the sole responsibility of the Developer.

11.3 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 11.3) actually received by the DIA 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, 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 Hotel Improvements and the Hotel Parcel, less the amount of all municipal and county ad valorem taxes that would have been levied or imposed on the Hotel Parcel using the assessed value for the Base Year, which for the purpose of this Agreement shall be \$3,116,718 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 Hotel Improvements, 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, Initial Year and ending April 1, Final Year, Developer shall give written notice to the DIA 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 taxes paid during the preceding twelve (12) month period, the Developer shall not be eligible for a REV Grant payment for that year. Provided, however, that if the Developer provides timely notice in future years, 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, DIA shall provide Developer with a calculation as to the annual REV Grant. If the Developer does not give written notice to the DIA of its objection to the DIA’s calculation within thirty (30) days after its receipt thereof, the DIA’s calculation shall be considered acceptable. Except as provided below, the DIA shall make payment of the REV Grant by the later of May 15th of each calendar year or thirty (30) days after DIA’s receipt of notification by the Developer that it is in agreement with the DIA’s annual calculation. In the event of a disagreement as to the calculation, the DIA 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 DIA 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 Developer 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 DIA is required to provide the REV Grant calculation to Developer shall be extended until 30 days after the date that Developer notifies the DIA 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 Developer.

11.4 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 11. 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 thereof.

Article 12. PROJECT COMPLETION GRANT

12.1 Project Completion Grant; Amount.

The Developer shall be eligible for a Project Completion Grant (“Project Completion Grant”) in the up to, maximum amount equal to \$25,834,887.00, payable in part upon Substantial Completion of the Hotel Improvements in accordance with this Agreement. The remaining balance of the Project Completion Grant shall be payable, if at all, at such time as the Office Building Improvements are Substantially Completed in accordance with the Office Building Redevelopment Agreement. The City’s obligation to make the Project Completion Grant is subject to the terms and conditions of this Agreement.

12.2 **Disbursement of Project Completion Grant.**

Upon Substantial Completion of the Hotel Improvements in accordance with the terms and conditions of this Agreement, Developer shall be eligible for the first installment of the Project Completion Grant, in the amount of \$23,634,887 (the “First Payment”). Upon the Substantial Completion (as defined in the Office Building Redevelopment Agreement) of the Office Building Improvements in accordance with the terms and conditions of the Office Building Redevelopment Agreement, the Developer is eligible for the second and final payment of the Project Completion Grant in the amount of \$2,200,000 (the “Second Payment”). Disbursement of the First Payment of the Project Completion Grant is subject to the terms and conditions to disbursement below and the other terms of this Agreement. Disbursement of the Second Payment of the Project Completion Grant, which can be applied for concurrently with disbursement of the First Payment of the Project Completion Grant, is conditioned on Developer being eligible for the First Payment in accordance with this Agreement, and Substantial Completion (as defined in the Office Building Redevelopment Agreement) of the Office Building Improvements in accordance with the terms and conditions of the Office Building Redevelopment Agreement, and is also subject to the conditions to disbursement as set forth in subparagraphs (a) and (c) – (i) below but made applicable as to the Office Building Improvements, Office Building Parcel, and Office Building Redevelopment Agreement, as applicable.

(a) The Hotel Improvements shall have been Substantially Completed in all respects in accordance with this Agreement and in accordance with the Performance Schedule, as may be modified by a Force Majeure Event or extended by the CEO of the DIA pursuant to Article 4 hereof, consistent with the requirements of this Agreement. The Developer shall furnish to the DIA a temporary certificate of occupancy for the Hotel Improvements, or such other permits and/or certificates (including a certificate of substantial completion from the architect or engineer of record) as shall be required to establish to the DIA's satisfaction that the Hotel Improvements have been Substantially Completed and are not subject to any material violations or uncorrected conditions noted or filed in any City department.

(b) The Developer shall have entered into a fully executed license agreement to operate the Hotel Improvements as a luxury Four Seasons hotel and residential property for a term of not less than ten years.

(c) All property taxes on the Hotel Parcel must be current, and the Hotel Improvements must be open to the general public and operating in accordance with the uses described in this Agreement.

(d) No Event of Default with respect to Developer's obligations under this Agreement with respect to the Hotel Improvements or 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 with respect to the Hotel Improvements has occurred and is continuing. Notwithstanding the foregoing, nothing

set forth herein shall abridge Developer's right to cure any notice of default within any applicable notice and cure period.

(e) The Developer shall submit to the DIA a proper contractor's final affidavit and pay applications supporting the Minimum Required Capital Investment to DIA's reasonable satisfaction;

(f) The disbursement request shall be made after Substantial Completion of the Hotel 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 Z**. The Disbursement Request shall be accompanied by the following supporting data: (i) processed pay applications for the Hotel 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 Hotel 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 City approved plans and specifications for such work; that the work and materials for which payment is requested have been physically incorporated into the respective 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 under this Agreement with respect to the Hotel Improvements.

(g) 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 Hotel Parcel (other than any consensual mortgage) released or transferred to bond within twenty (20) 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 Project Completion Grant 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 Project Completion Grant to Developer if, in the reasonable opinion of the City, any such disbursement or the Hotel 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.

(h) The Developer shall deliver to the DIA an as-built survey of the Hotel Improvements within sixty (60) days after the completion thereof.

(i) 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 Hotel Improvements.

12.3 **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 Project Completion 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.

12.4 **Further Disclaimer.**

The Project Completion 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 12. The City and DIA shall not be obligated to pay the Project Completion Grant or any portion 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 Project Completion Grant or any portion 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 Project Completion Grant or any portion thereof.

Article 13.
GRANT OF EASEMENTS

13.1 **Grant of Easements from City to Developer.**

The City has granted the following easements to Developer and Shipyards Office, LLC in connection with the Project:

(i) that certain Non-Exclusive Pedestrian and Non-Automobile Access and Easement Agreement by and between City, as grantor, and Developer, as grantee, for pedestrian, bicycle, and motorized access for vehicles such as scooters, golf carts and electric bicycles (but not street licensed automobiles, trucks, etc. beyond the entrance drive) with a minimum 8' width, with all maintenance obligations the responsibility of the Developer, located generally between the Hotel Parcel and the Office Building Parcel and Marina Support Building Parcel dated June 10, 2022 and recorded in Official

Records Book 20320, Page 1393, official public records of Duval County, Florida (“Easement 1”);

(ii) that certain Declaration of Access, Utilities and Parking Easement Agreement by City, as declarant, for pedestrian, bicycle, and motorized access for vehicles such as scooters, golf carts and electric bicycles but not street licensed automobiles, trucks, etc. (subject to JEA approval as set forth below), with all maintenance obligations the responsibility of the City, located generally in a north-south direction between the Office Building Parcel and Marina Support Building Parcel and the Future Development Parcel, and vehicular access for the access drive and parking spaces dated June 10, 2022 and recorded in Official Records Book 20320, Page 1352, official public records of Duval County, Florida (“Easement 2”);

(iii) that certain Non-Exclusive Pedestrian and Vehicular Access Easement Agreement by and between City, as grantor, and Developer, as grantee, for perpetual pedestrian and vehicular access easement over a portion of Easement 1 for the access drive with all maintenance obligations the responsibility of the Developer dated June 10, 2022 and recorded in Official Records Book 20320, Page 1411, official public records of Duval County, Florida (“Vehicular Access Easement”); and

(iv) that certain Non-Exclusive Pedestrian Access Easement Agreement by and between City, as grantor, and Developer, as grantee, for pedestrian and bicycle use easement (exclusive of automobiles but subject to additional uses approved in writing by the City Department of Parks, Recreation and Community Services in its sole discretion) over the Riverwalk Parcel to provide access for the benefit of residents, guests and invitees of improvements located on the Project Parcel, inclusive of a restrictive covenant prohibiting development of vertical improvements on the Riverwalk Parcel greater than 6’ in height, except for landscaping, hardscaping, cultural art pieces, lighting fixtures and signage. Developer shall be responsible for all maintenance, improvements, repair, and replacement to the Riverwalk Improvements (exclusive of the bulkhead, which shall remain the obligation of the City), dated June 10, 2022 and recorded in Official Records Book 20320, Page 1428 official public records of Duval County, Florida (the “Riverwalk Easement”).

If authorized by the JEA, portions of Easement 1 and Easement 2 may also provide for vehicular access and use. Such consent must be obtained by Developer from JEA in writing prior to construction and provided to the DIA. Any improvements, including landscaping and fill material, installed on Easements 1 or 2 shall not obstruct the view of the St. Johns River from East Bay St. for the width of such easements except for such improvements as may be authorized by the City in its regulatory capacity. DIA acknowledges that DDRB has approved Application DDRB 2021-013 at its May 12, 2022 meeting and such approval allows a defined level of fill over the view corridor between the Office Parcel and the Hotel Parcel.

Additionally, the City has granted or shall grant the following easements to the

Developer, or its assignee, in connection with the Project:

(a) the Retained Parcel 1, Retained Parcel 2, Marina Parcel and Riverwalk Parcel Temporary Construction Easement substantially in the form attached hereto as **Exhibit W** attached hereto;

(b) Marina Support Building Temporary Construction Easement substantially in the form attached hereto as **Exhibit Y** attached hereto;

(c) In connection with the construction of the Hotel Improvements and City-owned Improvements, a temporary construction easement over each of the Future Development Parcel (from and after November 1, 2022, and conditioned upon prior receipt by the City from the Jaguars of an executed estoppel letter addressed to the City, in form and substance reasonably acceptable to the City, consenting to the granting of the TCE and Developer Rights and stating that the Jaguars waive all rights to claim any breach or default under the Jaguars Lease arising out of or related to the TCE or Developer Rights, and expressly waiving the Jaguars parking rights, if any, with respect to Lot H during the term of the TCE), Retained Parcel 3, and Retained Parcel 4, as necessary for the construction of such improvements, in form and substance as set forth on **Exhibit X** attached hereto (the “Future Development Parcel, Retained Parcel 3 and Retained Parcel 4 Temporary Construction Easement”).

(d) A temporary tower crane license agreement over portions of East Bay St., the Marina Support Building Parcel, the Riverwalk Parcel, the Marina Parcel and a portion of Metropolitan Park, as previously executed by Shipyards Hotel Jacksonville, LLC, Shipyards Office, LLC and the City dated March 31, 2023, which shall prohibit any weight bearing loads (i) at any time over East Bay St. and Metropolitan Park, and (ii) at any time over the Riverwalk Parcel or Marina Parcel to the extent that the Riverwalk and/or the Marina are open to the public (as amended, the “Tower Crane License Agreement”) pursuant to and as more particularly stated in the Tower Crane License Agreement.

(e) An amendment to Easement 1 providing a description of the Multi-Use Path as a 16’ wide path consistent with the DDRB approval of the same (the “Easement 1 Amendment”) as previously executed by the City and Shipyards Hotel Jacksonville, LLC on March 31, 2023.

13.2 **Grant of Easement from Developer to City.**

The Developer shall provide a temporary utility easement to the City as necessary for the temporary relocation by the Developer at its expense of the utility lines servicing the Marina. The temporary utility easement shall terminate on the day following the Marina Closure Date.

The Developer shall also execute the Easement 1 Amendment.

Article 14.
THE DEVELOPMENT

14.1 Scope of Development.

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

14.2 Cost of Development.

Except as otherwise set forth in this Agreement, the Developer shall pay all costs of constructing and developing the Hotel 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 to disburse the REV Grant and Project Completion Grant, to remove or cause the removal of the Utilities as provided in this Agreement, and to provide funding in accordance with the applicable Disbursement Agreements entered into by the Developer and City in accordance with this Agreement.

14.3 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; provided, however, to the extent necessary or requested by Developer, City and DIA agree to use commercially reasonable efforts, at no cost to City and DIA, to reasonably assist Developer in obtaining any such approvals or permits from third party governmental authorities or agencies.

14.4 Authority of DIA to Monitor Compliance.

During all periods of design and construction, the CEO of the DIA, or her designee, shall have the authority to monitor compliance by the Developer with the provisions of this Agreement. The City's Director of Public Works, or his designee, shall oversee the design and construction of the Marina Support Building Improvements and Bulkhead Improvements in accordance with this Agreement, and the City's Director of Parks, Recreation and Community Services Department, or his designee, shall oversee the design and construction of the Riverwalk Improvements and Marina Improvements in

accordance with 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 notice to the Developer, representatives of the DIA and the City shall have the right of reasonable access to the Project Parcel and to every structure on the Project Parcel during normal construction hours upon at least one (1) business day's prior written notice to Developer to allow the coordination of safety issues.

14.5 Construction and Operation Management.

Except as otherwise expressly provided herein (and excluding the 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 Marina Improvements, Pier Improvements, Bulkhead Improvements, Marina Support Building Improvements, and Riverwalk Improvements which shall be governed by the applicable Disbursement Agreements);

(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 15. JSEB PROGRAM

15.1 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 good faith, in accordance with Municipal Ordinance Code Sections 126.608 et seq., to enter into contracts, or cause its contractors to enter into contracts, with City certified JSEBs to provide materials or services in an aggregate amount of not less than \$15,283,217.40, 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 AA** (the "JSEB REPORTING FORM").

Article 16. REPORTING

16.1 Reporting.

On an annual basis, the Developer shall submit reports to the DIA regarding the status of construction of the Hotel Improvements and City-owned Improvements and all other activities affecting the implementation of this Agreement, including a narrative summary of progress on the Project. Samples of the general forms of these reports are attached hereto as **Exhibit FF** (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 Hotel Improvements and City-owned Improvements.

The Developer's obligation to submit such reports shall continue until Developer has complied with all of the terms of this Agreement concerning the Project, the Improvements, REV Grant and Project Completion Grant and end upon Substantial Completion of the Hotel Improvements and City-owned 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 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 17.
DEFAULTS AND REMEDIES

17.1 General.

An “Event of Default” under this Agreement with respect to the development and construction of the Hotel Improvements 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 related to the development of the Hotel Parcel; or (iii) any default beyond the applicable cure periods under any and all financing agreements between or among either of the Developer relating to the Hotel Improvements that entitles such 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.

If any such Event of Default occurs under this Agreement with respect to the Hotel Parcel, the City may refuse to pay any portion of the REV Grant and Project Completion Grant and additionally 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, or proceed to take any action authorized or permitted under applicable laws or regulations; provided, however, that in no event shall the Developer or its designated Affiliates be liable to City or the DIA for any punitive, speculative, or consequential damages of any kind. With the exception of defaults in connection with the Performance Schedule as such schedule may be extended by Force Majeure Events or otherwise pursuant to this Agreement, for which no notice is required and the more specific cure period is required as set forth below, no occurrence shall constitute an Event of Default until the City has given the Developer, and any lender of Developer or its designated Affiliates who has provided written notice to the City and DIA pursuant to this Agreement and in advance of written notice of such default, 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 of the REV Grant and Project Completion 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 after receipt of written notice, no Event of Default shall be deemed to occur so long as the defaulting party, or its lender, has commenced a cure within such thirty (30) day period and thereafter diligently pursues such cure to a conclusion. With respect to a default in connection with the Performance Schedule as such schedule may be extended by Force Majeure Events or otherwise pursuant to this Agreement, Developer shall have the right to cure such default provided that Developer provides written evidence to the City that it is using diligent and continuous efforts to cure such default for a period of up to sixty (60) days; provided

however, Developer shall have the right to cure a default of the Completion Date for up to one hundred eighty (180) days. Notwithstanding the foregoing, the Developer shall immediately and automatically be in default with respect to this Agreement, 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.

17.2 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 City has commenced a cure within such thirty (30) day period and thereafter 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.

17.3 Specific Defaults.

Additionally, for any of the specific Events of Default described in this Section 17.3 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 16 of this Agreement and such default is not cured within the time period provided in Section 17.1 after written notice from the City and DIA will be entitled to withhold any undisbursed amount of the REV Grant and Project Completion Grant until such reporting information is provided; provided, however, if the reporting information is not provided

within the same City fiscal year such payment is due, the City shall have no obligation to make the REV Grant payment for such year.

- (b) if upon Substantial Completion of the Hotel Improvements in accordance with this Agreement, the Direct Costs incurred by the Developer for the Hotel Improvements is less than \$321,357,000 but is greater than or equal to \$289,221,300, the REV Grant will be proportionately reduced. If upon Substantial Completion of the Hotel Improvements in accordance with this Agreement, the Direct Costs incurred by the Developer for the Hotel Improvements are less than \$289,221,300 but is greater than or equal to \$273,153,450, then upon written application of the Developer, the DIA Board in its sole discretion may approve a proportionate reduction in the maximum amount of the REV Grant. If the Developer fails to incur at least \$273,153,450 in Direct Costs for the Hotel Improvements, the REV Grant will be terminated.
- (c) During the term of the REV Grant, a Four Seasons Hotel shall be operated on the Hotel Parcel. In the event the owner of the Hotel Parcel elects to change the flag of the hotel from the Four Seasons to another brand, the change in the flag will be subject to approval of DIA to ensure that the hotel continues to be operated as a luxury brand (four or five-star facility as determined by Forbes Travel Guide, or other respected source in the hospitality industry). In the event, DIA fails to approve the change of flag on the hotel, the owner of the Hotel Parcel may nevertheless change the flag but in such instance the REV Grant shall immediately terminate and the DIA and City shall have no further obligation in connection with the REV Grant.
- (d) In the event the Developer fails to incur Direct Costs in the Hotel Improvements of at least \$321,357,000.00, the Project Completion Grant shall be reduced on a pro rata basis. Any pro rata reductions greater than 10% but less than 15% shall required DIA Board approval in its sole discretion. If the Developer fails to incur at least \$273,153,450 in Direct Costs for the Hotel Improvements, the Project Completion Grant will be terminated.
- (e) The parties acknowledge and agree that the Hotel Parcel has been conveyed to Developer pursuant to that certain Quitclaim Deed with Right of Reverter recorded June 13, 2022 at Official Records Book 20320, Page 1371, current public records of Duval County. In the event that the Developer fails to Commence Construction of the Hotel Improvements in accordance with the terms of this Agreement and the Performance Schedule, as such date may be extended by Force Majeure Events or as set forth in this Agreement, 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 reverter right for the Hotel Parcel.

Developer shall cooperate and execute all documents reasonably necessary to demonstrate that its interest in the Hotel Parcel has ceased and that the Hotel Parcel has been reconveyed to the City. The instruments of conveyance shall be substantially the same as those executed and delivered upon conveyance of the Hotel 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, other than attorneys' fees and costs and other expenses incurred directly by the City. Ad valorem taxes will be prorated between the Developer and the City as of the date of reconveyance of title to the Hotel Parcel. This Section shall serve as the parties written agreement to extend the December 1, 2022 commencement of construction of the Hotel Improvements to the Horizontal Commencement of Construction Date as set forth in this Agreement.

- (f) If a Hotel Transfer occurs during the first five years after the Substantial Completion of the Hotel Improvements, then the following shall be due and payable by Developer to the DIA at the time the Hotel Transfer:

\$12,450,000, if the Hotel Transfer occurs within 12 months after the Substantial Completion of the Hotel Improvements;

\$9,960,000, if the Hotel Transfer occurs after 12 months but within 24 months of the Substantial Completion of the Hotel Improvements;

\$7,470,000, if the Hotel Transfer occurs after 24 months but within 36 months of the Substantial Completion of the Hotel Improvements;

\$4,980,000, if the Hotel Transfer occurs after 36 months but within 48 months of the Substantial Completion of the Hotel Improvements; or

\$2,490,000, if the Hotel Transfer occurs after 48 months but within 60 months of the Substantial Completion of the Hotel Improvements.

The term "Hotel Transfer" shall mean (i) the sale, exchange, conveyance, or disposal, whether voluntary, involuntary or by operation of law (with the exception of (1) any conveyance to an Affiliate of Developer (in compliance with Section 18.2 hereof, to the extent applicable); or (2) any

collateral assignment to a third-party lender or conveyance related to foreclosure by any third-party lender providing financing for the Hotel Improvements and any subsequent conveyance by such third-party lenders), of any ownership interest in the Hotel Parcel or the Hotel Improvements (other than the Condominium Residences), and/or (ii) a Change in Control in any entity who has an ownership interest in the Hotel Parcel or the Hotel Improvements (other than the Condominium Residences) as of the date of Substantial Completion of the Hotel Improvements. A “Change in Control” shall be deemed to have occurred when, as a result of a transfer or series of transfers, (i) more than 50% of the control or the beneficial ownership of any voting interests or equity interests changes, or (ii) any direct or indirect sale, assignment, transfer, exchange or other disposition of all or any portion of a general partner’s or managing member’s interest, the substitution of a general partner or managing member, or the addition of a general partner or managing member, or (iii) all or substantially all of the assets of the entity are sold, assigned, transferred or conveyed.

- (g) If a Cessation of Four Seasons Operations occurs during the first five years after Substantial Completion of the Hotel Improvements, and unless otherwise approved by City Council, then the following shall be due and payable by the Developer to the City upon Cessation of Four Seasons Operations;
 - (i) \$25,834,887, if the Cessation of Four Seasons Operations occurs within 12 months after disbursement of the Project Completion Grant;
 - (ii) \$20,667,910, if the Cessation of Four Seasons Operations occurs after 12 months but within 24 months of disbursement of the Project Completion Grant;
 - (iii) \$15,500,932, if the Cessation of Four Seasons Operations occurs after 24 months but within 36 months of disbursement of the Project Completion Grant;
 - (iv) \$10,333,955, if the Cessation of Four Seasons Operations occurs after 36 months but within 48 months of disbursement of the Project Completion Grant; or
 - (v) \$5,166,977, if the Cessation of Four Seasons Operations occurs after 48 months but within 60 months of disbursement of the Project Completion Grant.

The term “Cessation of Four Seasons Operations” shall mean a change in the flag and brand name under which the Hotel Improvements are operated from the Four

Seasons to another name, brand, or flag, or the Hotel closes its operations for any reason other than a Force Majeure Event. Notwithstanding the foregoing, the rebranding of all Four Seasons Hotels and Resorts locations in the United States to another uniform brand name shall not constitute a Cessation of Four Seasons Operations.

17.4 Hotel Parcel Reverter Process.

Notwithstanding the fact that the Reverter (as set forth in the Deed) shall be immediately effective upon the recording of the Notice (as defined in the Deed), Developer shall, at its sole cost and expense and within thirty (30) days of the recording of the Notice, deliver a Special Warranty Deed conveying the Project Parcel to the City and cause to be issued in the City's favor an owner's policy of title insurance for the fair market value of the Project Parcel without exception for any matters arising during Developer's ownership of the Hotel Parcel (unless such exception was consented to by City) and execute and deliver all documents reasonably requested by DIA in connection with the same. The Reverter shall be at no cost to the City or the DIA. Without limiting the foregoing and for avoidance of doubt, Developer expressly agrees to pay the premium for such owner's title policy, all related recording costs, any documentary stamps on the deed, the cost of surveys (or updated thereto), Developer's attorney's fees, and all other closing costs other than City or DIA's attorneys' fees and expenses or directly incurred costs.

Once the Developer has Commenced Construction of the Hotel Improvements in accordance with this Agreement, the City's reverter right to the Hotel Parcel shall terminate. Said termination of the repurchase right shall be evidenced by the recording of a notice of commencement by Developer with regard to the Hotel Improvements. If requested by the Developer, the City shall also execute and record at Developer's expense a notice of termination of reverter rights at the time of recording of the notice of commencement in form and substance acceptable to the City and Developer in their reasonable discretion.

17.5 Liens, Security Interests.

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

Article 18.

ANTI-SPECULATION AND ASSIGNMENT PROVISIONS

18.1 Purpose.

The Developer represents and agrees that its acquisition of the Hotel Parcel and undertakings pursuant to this Agreement are for the purpose of developing such parcels 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 or members and executive officers of the Developer are of particular concern to the City and the DIA.

18.2 Assignment; Limitation on Conveyance.

Developer agrees that, with respect to the Project, until the Substantial Completion of the Hotel Improvements, it shall not, without the prior written consent of the DIA (which consent shall not be unreasonably withheld), assign, transfer or convey (i) the Hotel Parcel or any portion thereof until such portion of the Improvements are Substantially Completed, (ii) this Agreement or any provision hereof as it relates to the Project, (iii) a controlling interest in the Developer; or (iv) a controlling interest in the Managing Member of 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 or the Project Completion Grant to the Developer shall immediately terminate. Notwithstanding the foregoing, Developer may assign, transfer or convey items (i)-(ii) above to an Affiliate of Developer 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, Developer may collaterally assign its rights and obligations pursuant to this Agreement to any lender providing financing for the Hotel Improvements 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 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 all lenders of any component of the Project at its address as noticed to City pursuant to Section 19.3 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 Lender, Lender may cure any event of default; provided, however, if any default cannot reasonably be cured within the initial one hundred twenty (120) calendar days, no Event of Default shall be deemed to occur so long as such lender has commenced a cure within such one hundred twenty (120) day period and thereafter diligently pursues such cure to a conclusion within one hundred eighty (180) days of the date of written notice thereof.

Article 19.
GENERAL PROVISIONS

19.1 Non-liability of DIA and City Officials.

No member, official, officer, employee or agent of the DIA or the City shall be personally liable to the Developer or to any person or entity with whom the Developer shall have entered into any contract, or to any other person or entity, in the event of any default or breach by the DIA or the City, or for any amount which may become due to the Developer or any other person or entity under the terms of this Agreement. No member, officer, manager, shareholder, employee or agent of the Developer or its designated Affiliates shall be personally liable under this Agreement to the City or DIA or to any person or entity with whom the City or DIA shall have entered into any contract, or to any other person or entity, in the event of any default or breach by the Developer or its designated Affiliate, or for any amount which may become due to the City or DIA or any other person or entity under the terms of this Agreement.

19.2 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, 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, permitting delays, 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 beyond the normal and customary time frames for obtaining the same in the City, 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 (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 and shall be proximately caused by such Force Majeure Event.

In the event of any delay or nonperformance resulting from such causes, the party affected shall notify the other in writing within fifteen (15) calendar days of the force majeure event. Such written notice shall describe the nature, cause, date of commencement, and the anticipated impact of such delay or nonperformance, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected, and shall describe the actions reasonably taken to minimize the impact thereof.

19.3 **Notices.**

All notices to be given hereunder 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 to the parties at the following addresses (or to such other or further addresses, including any lender of any component of the Project (provided Developer has previously provided in writing to DIA and the City at the addresses listed below a notice address for any such lender), 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.

the DIA and City: Downtown Investment Authority
 117 W. Duval Street, Suite 300
 Jacksonville, Florida 32202
 Attn: Chief Executive Officer

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

The Developer Shipyards Hotel, LLC
 1 EverBank Field Drive
 Jacksonville, Florida 32202
 Attn: General Counsel

With a copy to: Driver, McAfee, Hawthorne & Diebenow, PLLC
 1 Independent Drive, Suite 1200
 Jacksonville, Florida 32202
 Attn: Steve Diebenow

19.4 **Time.**

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

19.5 **Entire Agreement.**

This Agreement amends and restates the Hotel Redevelopment Agreement in its entirety. The Hotel Redevelopment Agreement, as amended and restated hereby, is not terminated. Nothing contained in this Agreement shall constitute a novation of the parties

obligations based on facts or events occurring or existing prior to the execution of this Agreement.

19.6 **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.

19.7 **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.

19.8 **Indemnification.**

Developer shall indemnify, hold harmless and defend the City of Jacksonville, DIA and their respective members, officials, officers, employees and agents in accordance with **Exhibit GG** attached hereto.

19.9 **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.

19.10 **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.

19.11 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 19.11 shall be incorporated into and become a part of the subcontract.

19.12 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.

19.13 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*.

19.14 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.

19.15 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.

19.16 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.

19.17 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 by this reference.

19.18 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.

19.19 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. Delivery of a counterpart by electronic means shall be valid for all purposes.

19.20 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.

19.21 **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 owes the City or DIA additional monies, and the Developer does not make restitution within thirty (30) days from the date of receipt of written notice from the City, then the City may pursue all available remedies under this Agreement and applicable law.

19.22 **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 Hotel Parcel.

19.23 **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 amount 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 parties shall have no further obligations hereunder.

19.24 **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 other than permitted successors and assigns. Subject to the limitations contained in Section 18.2, 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 18.2, 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.

19.25 **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.

19.26 **Civil Rights.**

The 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 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.

19.27 **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 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.

19.28 **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.

19.29 **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.

19.30 **Further Authorizations.**

The parties acknowledge and agree that the Mayor of the City, or his designee, and the City's Corporation Secretary and the CEO 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.

19.31 **Estoppel Certificate.**

Within ten (10) 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), to such parties actual knowledge, 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.

19.32 **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.

[signatures on following page]

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: _____
Donna Degan, Mayor

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY

Print Name: _____

By: _____
Colin Tarbert, CEO

Print Name: _____

DEVELOPER

WITNESS:

SHIPYARDS TRUSTEE JACKSONVILLE, LLC, a Delaware limited liability company, as Trustee

By: Iguana Investments Florida, LLC, a Delaware limited liability company, sole member and manager

Print Name: _____

By: _____

Print Name: _____

Name: Jeffrey B. Miller

Its: _____

Date: _____

Form Approved:

Office of General Counsel

GC-#1709133-v13-Iguana_Shipyards_Hotel_-
_Second_Amended_and_Restated_RDA_.doc

Encumbrance and funding information for internal City use:

Account or POA Number: _____

1Cloud Account for Certification of Funds	Amount

This above stated amount is the maximum fixed monetary amount of the foregoing Contract. It shall not be encumbered by the foregoing Contract. It shall be encumbered by one (1) or more subsequently issued purchase order(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such purchase order(s) are issued.

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

Director of Finance
City Contract Number: _____

LIST OF EXHIBITS

Exhibit A	Project Parcel
Exhibit B	Hotel Improvements
Exhibit B-1	Conceptual Renderings of Hotel Improvements
Exhibit B-2	Site Plan for New Drive
Exhibit C	Hotel Parcel
Exhibit D	Reserved
Exhibit E	Events Lawn Improvements
Exhibit F	FIND Grants
Exhibit G	Future Development Parcel
Exhibit H	Marina Improvements
Exhibit I	Reserved
Exhibit J	Marina Management Agreement
Exhibit K	Marina Parcel
Exhibit L	Reserved
Exhibit M	Marina Support Building Improvements
Exhibit N	Marina Support Building Lease Agreement
Exhibit O	Marina Support Building Parcel
Exhibit P	Reserved
Exhibit Q	Office Building Parcel
Exhibit R	Riverwalk Design Criteria
Exhibit S	Riverwalk Improvements
Exhibit T	Reserved

Exhibit U	Riverwalk Parcel
Exhibit V	Parking Map
Exhibit W	Retained Parcel 1, Retained Parcel 2, Marina Parcel and Riverwalk Parcel Temporary Construction Easement
Exhibit X	Future Development Parcel, Retained Parcel 3 and Retained Parcel 4 Temporary Construction Easement
Exhibit Y	Marina Support Building Temporary Construction Easement
Exhibit Z	Disbursement Request Form
Exhibit AA	JSEB Reporting Form
Exhibit BB	Annual Survey
Exhibit CC	Indemnification Requirements
Exhibit DD	Service Road

EXHIBIT A

Project Parcel

The Project Parcel consists of the approximate 8-acre aggregation of parcels within the dashed line labeled as Hotel Parcel (± 4.77), Retained Parcel 1 (± 0.36), Marina Support Building Parcel (± 1.0), Retained Parcel 2 (± 1.22), and the Riverwalk Parcel (± 1.00), all being a portion of Duval County tax parcel 130572 0110 and all of Duval County tax parcel 130572 0120, together with the submerged lands lease parcel identified as Marina Parcel.

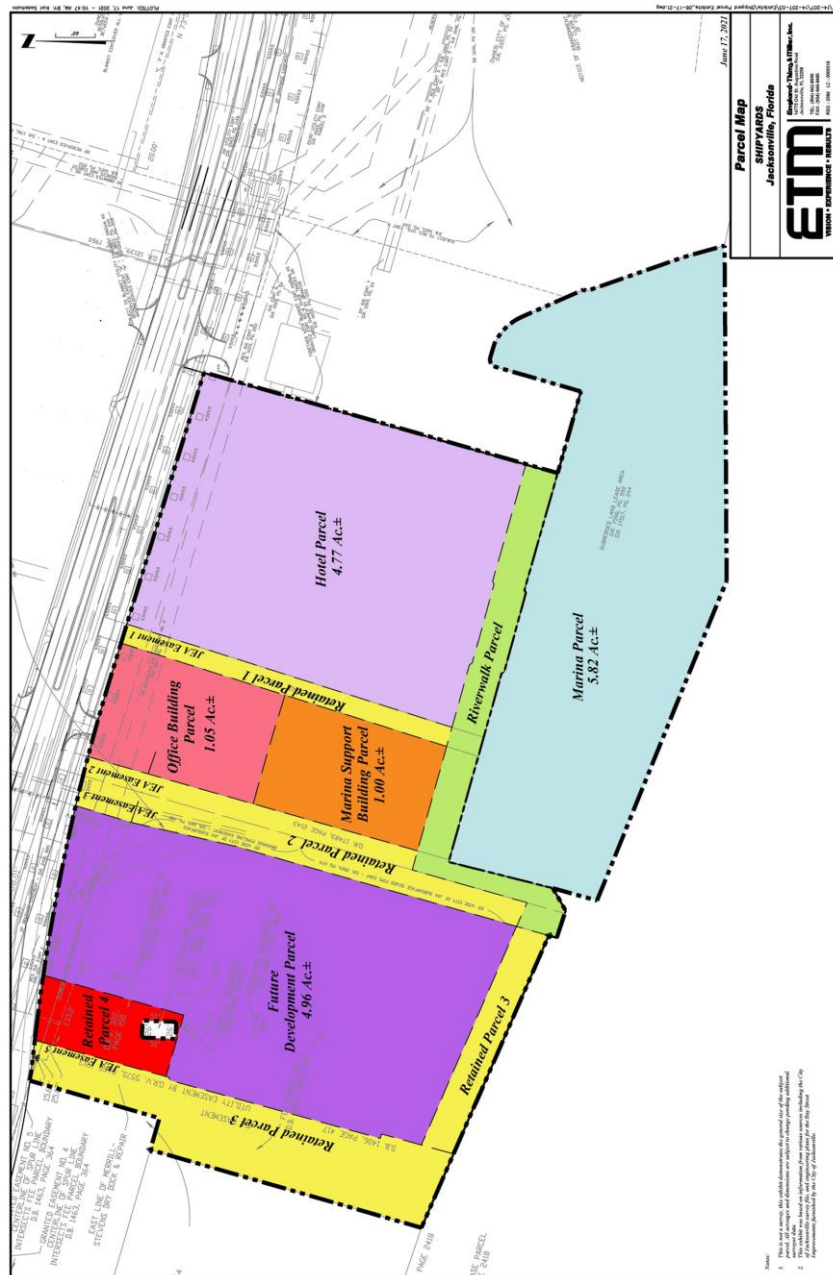


EXHIBIT B

Hotel Improvements

On the Hotel Parcel, Developer shall design and construct the hotel improvements (“Hotel Improvements”) to include the following:

- (i) a Four Seasons luxury hotel with approximately 176 keys (but no fewer than 170) (the “Hotel”);
 - (ii) approximately 25 (but no fewer than 23) Class A condominium units (the “Condominium Residences”);
 - (iii) a minimum of a 75,000 square foot structured parking facility, inclusive of drive aisles and service areas;
 - (iv) approximately 39,100 (but no less than 37,000) square feet of restaurants, bars, rooftop amenities, sundry shops, retail space, river-view lounge (restaurant, pool, and decks located facing the riverfront), spa, wellness, and fitness center that will be open to the public on a fee basis
 - (v) approximately 10,600 (but no less than 9,500) square feet of flexible meeting space; and,
 - (vi) the DIA Board shall have the discretion to permit deviation below each of the stated minimums in an amount not to exceed 10% provided such reduction does not result in in reduction in the Minimum Private Capital Investment, Minimum Required Direct Costs, or a per unit or per square foot cost that exceeds the reasonable value limits used in underwriting.
1. The Minimum Private Capital Investment for the Hotel Improvements shall be \$373,962,000. In addition to the Minimum Capital Investment for the Hotel Improvements, the cost of the New Drive (defined below) is an additional Developer investment in the amount of \$176,200.
 2. Any improvements constructed on the Hotel Parcel shall comply with the Downtown Zoning Overlay and have been approved by DDRB under Application DDRB 2021-013. The JEA Easements shall be deemed to be River View and Access Corridors as defined in Chapter 656, Part 3, Subpart H of the Jacksonville Ordinance Code. Due to the width of the JEA Easements and adjacent Metropolitan Park, DIA has and will continue to support a deviation from the required View and Access corridors as to Hotel Parcel without loss of incentives provided both view and access are preserved on Easement 1.
 3. The design of the Hotel Improvements shall be similar to the conceptual renderings attached hereto as **Exhibit B-1** and shall include open plaza and pool

space fronting, and open to the Riverwalk which as to the pool space may be fenced and gated to provide controlled entry from the Riverwalk to the Hotel Improvements; provided, however, that entry to the public areas of the Hotel Improvements from the Riverwalk by members of the general public shall not be prohibited.

4. Developer, to the extent permitted by law, shall cause an additional 2% room surcharge (“Room Surcharge”) to be collected and rebated for the benefit of Metropolitan Park, the Marina, Marina Support Building and the Riverwalk Improvements into a COJ capital fund (“Capital Fund”). Developer and the COJ shall mutually agree on the use of the Capital Fund to be spent in accordance with an annual budget that is reviewed and approved by the Jacksonville City Council (“City Council”). Proceeds in the Capital Fund shall be the property of the COJ and shall be used exclusively to fund capital expenses in accordance with the approved capital plan (“Capital Plan”).
5. Developer shall enter into a Park Partnership Agreement (“PPA”) with COJ and shall contribute a minimum of \$200,000 annually for a term of twenty (20) years for the maintenance and programming of Metropolitan Park.
6. During the term of any REV grant on the Hotel Parcel, the Hotel shall be operated as a Four Seasons Hotel (or, to the extent the Four Seasons name is changed throughout the United States by the ownership of the hotel name, under such new name, but subject to the below). In the event the owner of the Hotel Parcel elects to change the flag of the Hotel from the Four Seasons to another brand, the change in the flag will be subject to approval of DIA to ensure that the Hotel continues to be operated as a luxury brand (four or five-star facility as determined by Forbes Travel Guide, or other respected source in the hospitality industry). In the event DIA fails to approve the change of flag on the Hotel, the owner of the Hotel Parcel may nevertheless change the flag but will thereafter lose the right to collect any further REV grant payments.
7. At all times prior to the Marina Closure Date, Developer shall provide temporary replacement parking spaces on the property bounded by Easement 2 where the current access roadway is located to support the Marina. Prior to substantial completion of the Hotel Improvements, and subject to approval of JEA, if required, Developer shall construct a new access drive substantially as depicted in the plans approved by DDRB on May 12, 2022, as the same may be amended or modified by: (i) DDRB in subsequent approvals requested by the Developer; or (ii) DDRB staff as authorized by Jacksonville Ordinance Code, except that in addition, the access drive shall include a minimum 5’ width sidewalk along the western side of the access drive connecting East Bay St. to the Riverwalk Parcel over Easement 2 and/or the Future Development Parcel if necessary (collectively, the “New Drive”) with a minimum of twenty (20) on-street parking spaces to

provide parking for patrons of the Marina and Marina Support Building. The New Drive shall be designed as a private access drive and shall be constructed substantially as shown **Exhibit B-2** attached hereto and is not required to confirm to standard City roadway requirements. City shall own the New Drive and shall be responsible for maintenance of such New Drive pursuant to Easement 2, as the same may be amended.

8. The Hotel Improvements shall include, subject to approval of JEA, if required, a minimum 16' wide pedestrian and bicycle multi-use path connecting East Bay St. to the Riverwalk in the general location of Easement 1 (or in such other location as maybe approved by DIA) to meet the requirement of an access corridor between the Office Building Parcel and Hotel Parcel and to provide pedestrian, bicycle and motorized vehicular access for vehicles such as scooters, golf carts and electric bicycles but not street licensed automobiles, trucks, etc. between East Bay St. and the Riverwalk.

EXHIBIT B-1
Conceptual Renderings of Hotel Improvements



HKS | **CONCEPT ARCHITECTURE** |  | **DESIGN** | **FOUR SEASONS HOTEL & RESIDENCES LOS ANGELES**
International, North

AERIAL VIEW FROM MARINA



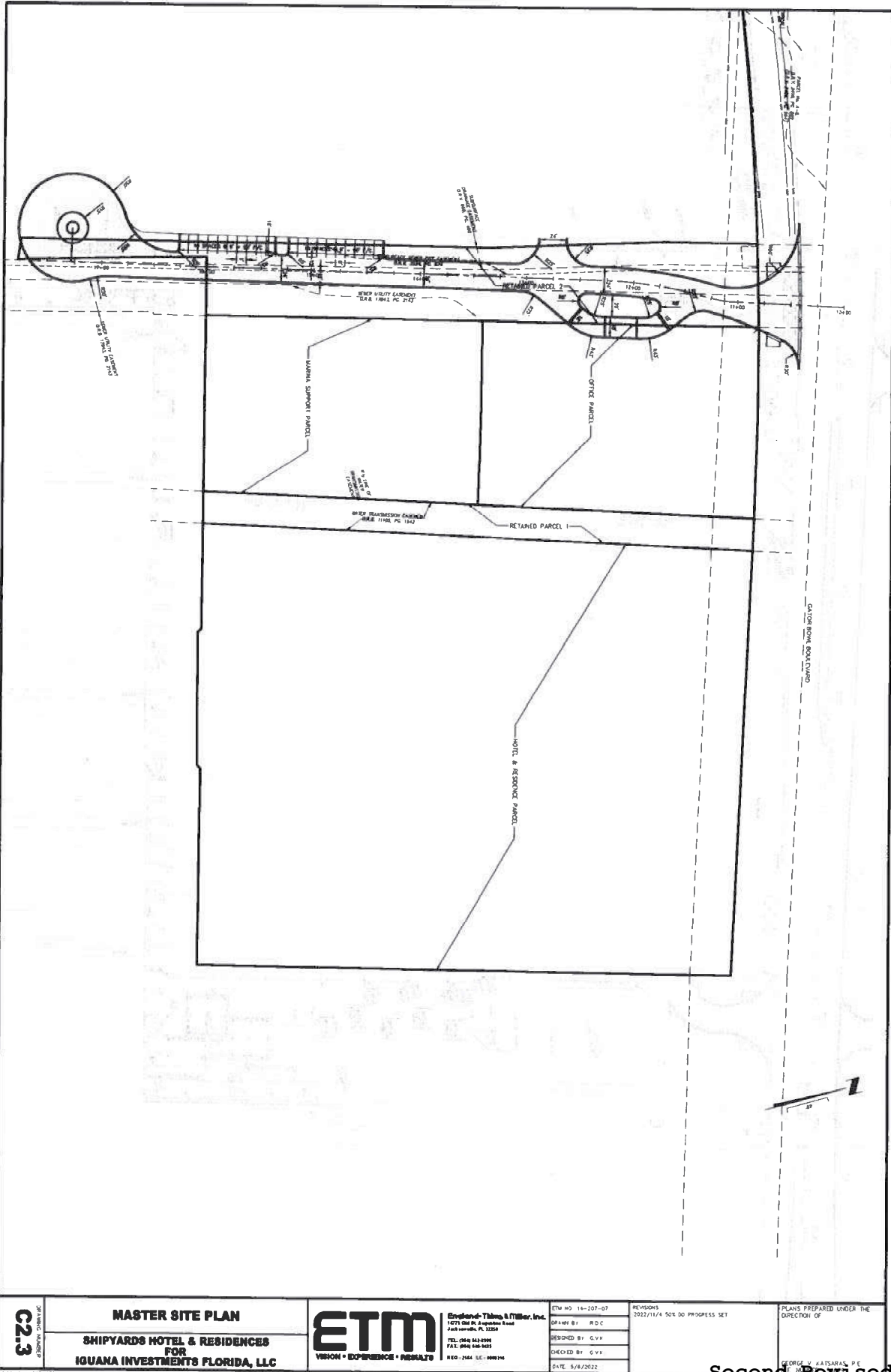
HKS | **CONCEPT ARCHITECTURE** |  | **DESIGN** | **FOUR SEASONS HOTEL & RESIDENCES LOS ANGELES**
International, North

EYE LEVEL VIEW FROM MARINA

EXHIBIT B-1 CONTINUED
Conceptual Renderings of Hotel Improvements



EXHIBIT B-2
Site Plan for New Drive



C2.3	MASTER SITE PLAN SHIPYARDS HOTEL & RESIDENCES FOR IGUANA INVESTMENTS FLORIDA, LLC	ETM VISION • EXPERIENCE • INTEGRITY Everland-Thompson & Miller, Inc. 14775 Old St. Augustine Road Juno Beach, FL 33408 TEL: (561) 843-8888 FAX: (561) 843-8431 E-MAIL: ETL@ETMFLA.COM	ETM NO. 14-207-07 DESIGNED BY: RDC CHECKED BY: C.V.F. DATE: 5/8/2022 REVISIONS: 2022/11/4 50% DO PROGRESS SET	PLANS PREPARED UNDER THE SUPERVISION OF GEORGE V. KATSARAS, P.E.
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T:\2014\14-207-07\Landmark\Design\Site_Plan\Design\Landmark\14-207-07_Site_Plan_Exhibit B.dwg

EXHIBIT C

Hotel Parcel

An approximately 4.77-acre parcel of real property (see following page) located on the easternmost portion of the property known as Kids Kampus and depicted as the Hotel Parcel on the attached survey map. The Hotel Parcel is bounded on the north by the new proposed right of way line of East Bay St., on the south by a line parallel to and 50 feet landward of the existing bulkhead, on the east by Metropolitan Park, which is subject to the restriction for perpetual use in favor of the National Park Service and bounded on the west by that certain easement in favor of JEA recorded in Official Records Book 11109, Page 1942. As conveyed, the Hotel Parcel will not include any interest in riparian rights or submerged lands and will be deed restricted to preclude industrial, manufacturing, or industrial product assembly on the Hotel Parcel.

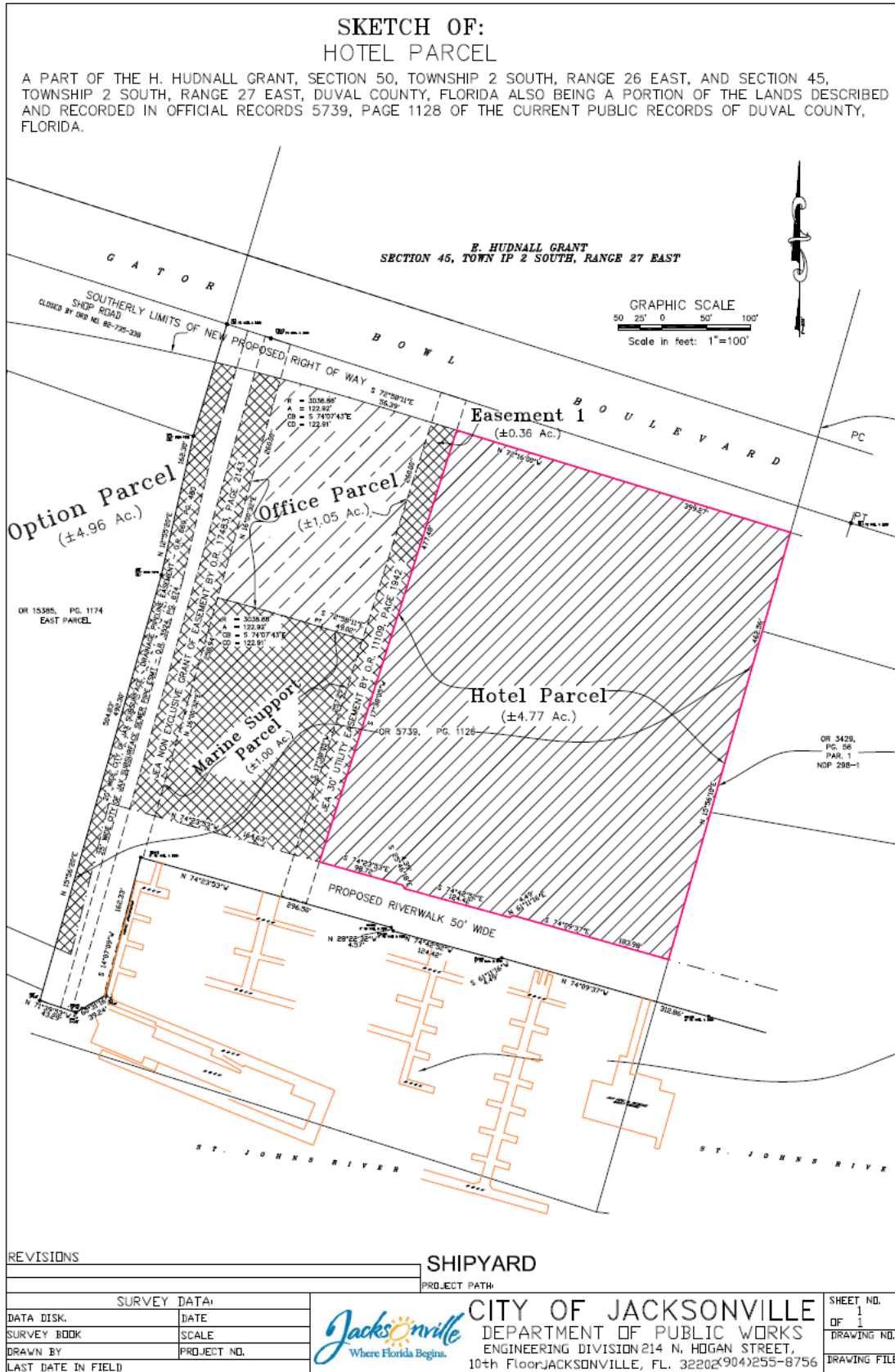


EXHIBIT D

Reserved

EXHIBIT E

Events Lawn Improvements

A public park space surrounding the Marina Support Building and covering the Marina Support Building Parcel (exclusive of the footprint of the Marina Support Building) including but not limited to landscape, hardscape, and irrigation, all subject to the design and budget approval of the City of Jacksonville Department of Parks Recreation and Community Services. The Events Lawn shall provide physical access in multiple locations, or continuously, to the Riverwalk and to the access corridor between the Hotel Parcel and Office Building Parcel and to the access drive on Retained Parcel 2.

EXHIBIT F

FIND Grants

The following grants provided by the Florida Inland Navigation District for various marina improvements:

FIND GRANT	Expiration of Dedication	Improvements	Buyout Cost
DU-JA-93-15 (10/23/93)	9/6/21	Installation of Floating Docks	\$201,349.00
DU-JA-94-17 (1/7/95)	9/6/21	Installation of Floating Docks and Piles	\$579,635.00
DU-JA-99-39 (3/24/00)	8/30/27	Marina Maintenance Dredging	\$175,725.00
DU-JA-07-98 (1/14/08)	6/2/35	Marina Electric Upgrades	\$450,000.00
		TOTAL	\$1,406,709.00
		TOTAL after 9/6/21	\$625,725.00

EXHIBIT G

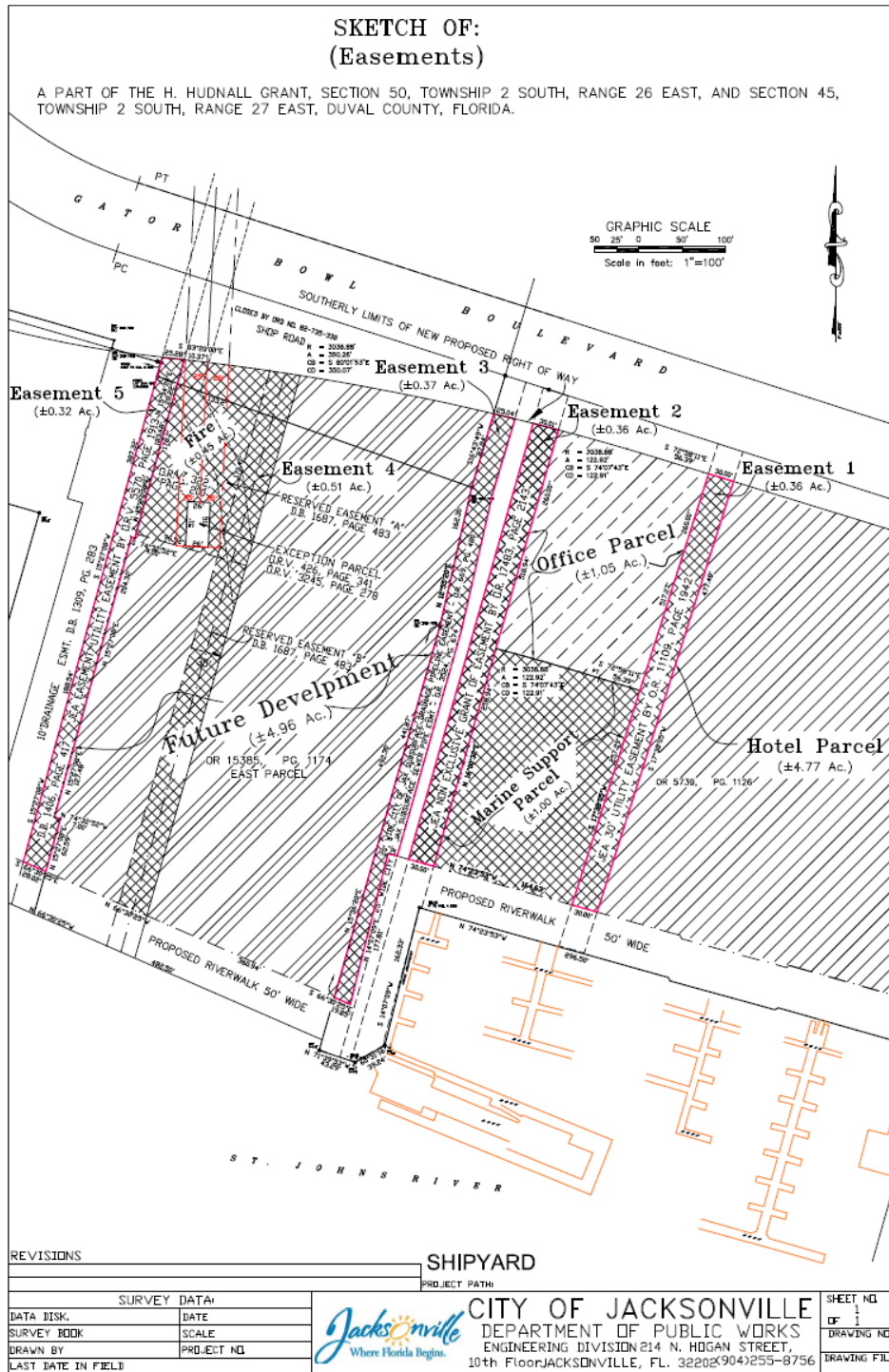
Future Development Parcel

The Future Development Parcel is an approximately 4.96 acre parcel of real property bounded on the north by the new proposed right of way line of East Bay St., on the south by a line parallel to and 50 feet landward of the existing bulkhead, on the east by the two easements in favor of the City recorded in Official Records Book 3524, Page 674 and Official Records Book 669, Page 480, respectively, and bounded on the west by that certain easement in favor of JEA recorded in Official Records Book 5570, Page 1913 (also found in Deed Book 1406 at page 417). The Future Development Parcel shall also include, at Developer's option, a grant of an easement providing Developer non-exclusive ingress and egress rights and exclusive riparian rights in front the City retained waterfront property immediately south of Future Development Parcel (as if the easterly and westerly boundaries of Future Development Parcel were extended into the St. Johns River). The Future Development Parcel shall also include nonexclusive easements over Easements 4 and 5 as depicted on the **Exhibit G-1** attached hereto, to the extent permitted by such easements.

[Legal description to be inserted after confirmation by survey.]

EXHIBIT G-1

Easements 4 and 5



[Legal description to be inserted after confirmation by survey.]

EXHIBIT H

Marina Improvements, Bulkhead Improvements and Pier Improvements

Subject to the review and approval of the final plans for the upgrades to the Marina, Bulkhead Improvements and Pier Improvements, the Developer shall construct or cause to be constructed the Marina Improvements, Bulkhead Improvement and Pier Improvements, in accordance with the terms of the Agreement, which improvements at a minimum shall include the following requirements and all of which are subject to review and approval of the City's Department of Public Works and Department of Parks Recreation and Community Services.

- Replacement of the existing approximately 871 linear foot bulkhead adjacent to the Marina Parcel (the "Bulkhead") including an increased bulkhead height to create consistent finished elevations. The existing Bulkhead or portions thereof may remain in place and the replacement bulkhead may be constructed immediately seaward of the Bulkhead.
- Removal and replacement of the Marina with no less lineal footage of dock space and sufficient dock space to accommodate no fewer than the seventy-eight (78) boats currently accommodated.
- Dredging of the Marina basin.
- Removal of the approximately 260-foot concrete pier that runs along the seaward boundary of the Marina (the "Pier") and replacement of the Pier with a pier of substantially similar length, function, width and walkability, subject to approved revisions to the plans and specifications as set forth herein.
- Floating concrete docks similar to the replacement docks recently installed at the former site of the Jacksonville Landing shall be utilized.
- All renovations will remain in compliance with outstanding FIND Grants and FRDAP Grant.
- The entire Marina will remain a public marina with 100% of the slips available to the general public for public recreational use with additional limitations as follows:
 - All slips shall be transient rental only with no rental longer than 3 days allowed unless a longer period is approved by City Department of Parks and Recreation and permitted by the Submerged Land Lease, FRDAP Grant and LWCF Grant;
 - No fewer than 60 slips shall be available on an hourly or daily basis; and,
 - No slip rentals shall be limited to hotel guests or property owners only.

- City shall maintain the Submerged Land Lease with the Board of Trustees for the Marina consistent with terms as set forth in the Submerged Land Lease and this Agreement.
- The Marina may provide fuel, electricity, water and pump-out services if allowed by the State of Florida pursuant to the Submerged Land Lease.
- The current Submerged Land Lease does not allow live-aboard, wet slips, contractual agreements with cruise ships, rental of recreational pleasure craft, charter, or tour boats or fuel service

EXHIBIT I

Reserved

EXHIBIT J

Marina Management Agreement

MARINA MANAGEMENT AGREEMENT

THIS MARINA MANAGEMENT AGREEMENT (this “Agreement”) is effective as of _____, 2025 (the “Effective Date”) and is by and between **SHIPYARDS MARINA FLORIDA, LLC**, a Delaware limited liability company (“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. 161272789, 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 “Submerged Land Lease”), City is the lessee of certain submerged lands as more particularly described on **Exhibit A** attached hereto (the “Marina Parcel”); and

WHEREAS, the Marina Parcel and operation of the Marina, as defined below, are subject to that certain Florida Recreation Development Assistance Program Grant (“FRDAP Grant”), as further detailed on **Exhibit B** attached hereto; and

WHEREAS, Shipyards Hotel, LLC (“Shipyards”), an affiliate of Manager, City and the Downtown Investment Authority (“DIA”) have previously entered into that certain Amended and Restated Redevelopment Agreement dated March 30, 2023, as amended by that certain Second Amended and Restated Redevelopment Agreement among the City, DIA and Shipyards Trustee Jacksonville, LLC dated _____, 2025 (collectively, the “Redevelopment Agreement”), pursuant to which City and DIA will provide certain incentives to Shipyards to construct certain improvements, including but not limited to (and at the election of Shipyards under the Redevelopment Agreement) the Marina Improvements and Pier Improvements (as defined in the Redevelopment Agreement) on the Marina Parcel; and

WHEREAS, it is the intention of City that the Marina Improvements and Pier Improvements serve as a first-class public marina facility providing wet slips on a transient basis, with water, fueling and pump-out services for the use of and by the general public (collectively, the “Marina”); and

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

WHEREAS, the Parties acknowledge that, as of the Effective Date, Manager has Commenced Construction (as defined in the Redevelopment Agreement) of the Marina Improvements and Pier Improvements, and Substantial Completion, as defined in the Redevelopment Agreement, thereof is anticipated to occur on or before August 30, 2026; and

WHEREAS, City's intent in retaining Manager is to have a vital, financially successful Marina by engaging Manager pursuant to the terms of this Agreement;

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; Marina Operator.** Subject to the supervision and oversight of the City as set forth herein, Manager shall have the authority to 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.

The Parties acknowledge that Manager may elect to hire a qualified marina operator, subject to the terms of this Agreement and the approval of such marina operator by the City in its reasonable discretion (including any successors, the "Marina Operator"), to fulfill Manager's obligations under this Agreement. Notwithstanding the foregoing, in the event Manager hires the Marina Operator or assigns this Agreement (subject to City approval as set forth in Section 35(g) below), Manager shall remain bound to the City pursuant to this Agreement for any failure by the Marina Operator to comply with all obligations, duties and standards imposed on Manager hereunder.

3. **Term.** The term of this Agreement ("Term") shall commence on the Effective Date and continue through the expiration date of the initial ten (10) year term of the Submerged Land Lease unless it is sooner terminated. During the Term of this Agreement, City shall use diligent efforts to apply for and diligently pursue extensions and/or renewals of the Submerged Land Lease prior to the expiration of the then current term thereof.

Subject in each case to an extension or renewal of the Submerged Land Lease, Manager may elect to extend the term of this Agreement for one (1) additional period of ten (10) years after which additional period Manager and the City may mutually agree to extend the term of this Agreement for one (1) additional period of ten (10) years. Manager shall deliver written notice of its desire to extend the term of this Agreement pursuant to such extension options not less than one hundred twenty (120) days prior to the expiration of the then current term, or otherwise upon the mutual agreement of the Parties. Notwithstanding the foregoing, unless the State of Florida is processing but has not yet issued a renewal of the Submerged Land Lease, no extension option may extend beyond the term of the extension or renewal of the Submerged Land Lease as of the date of exercise of such option, and in the event the Submerged Land Lease expires or is terminated, this Agreement shall automatically terminate as of such date.

4. **City's Ownership of Marina Improvements and Pier Improvements.** Notwithstanding anything herein to the contrary, City is and shall remain the sole and exclusive owner of the Marina Improvements and Pier Improvements. Upon the expiration of this Agreement, for any reason, all existing and any future installed fixtures, equipment, improvements and

appurtenances attached to or built into the Marina in such a manner as to be deemed fixture and part of the freehold estate, notwithstanding that such improvements may have been constructed at the expense of Manager or any related party, shall become and remain a part of the Marina Improvements and Pier Improvements 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 (the “Personal Marina Property”) paid for and owned by Manager or Marina Operator and located at the Marina shall be and remain the property of Manager or Marina Operator 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 for use of and by the general public, including, without limitation, those services set forth on **Exhibit C** attached hereto (collectively, the “Services”). 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 E** (the “Marina Standards”) and incorporated herein by this reference, and in compliance with the conditions and requirements of the Submerged Land Lease and the FRDAP Grant.
6. **Revenue.** As compensation for the Services, Manager shall, on a monthly basis, be entitled to retain all revenues generated by the Marina, including all amounts collected from Patrons for fueling, slip rentals, electricity, merchandise sales, and fuel purchases (to the extent fuel services are authorized in the future pursuant to the Submerged Land Lease) and related services (collectively, “Gross Revenues”). Pump-out services (if authorized under the Submerged Land Lease) shall be provided free of charge to incentivize use and minimize waste disposal into the St. Johns River. All Gross Revenues shall be used solely for funding the operation and maintenance activities of the Marina, inclusive of any back-of-house area, equipment and facilities serving the Marina. “Operation and maintenance activities” shall mean those activities necessary to operate the Marina in a manner consistent with the Marina Standards and maintain the Marina in accordance with the standards of maintenance for other similar local facilities and in accordance with applicable law. On or before each March 1 for the term of this Agreement, Manager shall present its budget for the uses of the Gross Revenues for the following City fiscal year for review and approval by the City’s Department of Parks, Recreation and Community Services Department (“Parks Department”) in its reasonable discretion.
7. **Renting of the Marina.** The Parks Department, in consultation with Manager and subject to the City’s reasonable discretion, shall establish the terms and conditions of temporary mooring of recreational vessels in transient wet slips in the Marina, consistent with the requirements of the Submerged Land Lease and FRDAP Grant; provided that, at all times, unless otherwise limited by Paragraph 22 herein, Manager shall maintain no less lineal

footage of dock space sufficient to accommodate no fewer than a minimum of seventy-eight (78) recreational vessels for public transient rental on a “first come, first served basis” (the “Transient Slips”). No use of a Transient Slip shall exceed five (5) days and no more than ten (10) days per calendar month unless a longer period of time is approved in writing in advance by the Parks Department and is otherwise authorized under the Submerged Land Lease and FRDAP Grant. Unless otherwise limited by Paragraph 22 herein, no fewer than sixty (60) slips shall be available on an hourly or daily basis with the exception of those days on which a special event occurs as discussed in Paragraph 16 herein. No rentals of Transient Slips shall be restricted to use for adjacent hotel guests or property owners. No live-aboard, contractual agreements with commercial vessels, rental of recreational pleasure craft, charter or tour boats is permissible unless authorized under the Submerged Land Lease and under the FRDAP Grant and authorized in writing by the Parks Department in its sole discretion. Manager will collect Transient Slip rental fees from Patrons and shall be responsible for all rental receipts. Manager may propose rental rates for Transient Slips to the Parks Department consistent with the requirements of the Submerged Land Lease and FRDAP Grant, which rental rates are subject to the review and approval of the Parks Department in its reasonable discretion. City and Manager agree that the rental rates for Transient Slips will be based on commercially fair and marketable rates that ensure broad public access, subject to the requirements of the Submerged Land Lease and FRDAP Grant. City and Manager also agree that availability of the Marina and any rental rates charged for use of the Marina shall be identical for those residents of the twelve (12) counties within the Florida Inland Navigation District. On or before each March 1 during the term of this Agreement, Manager shall submit its proposed fees and rates attendant to the use of the Marina for the following City fiscal year for review and approval by the Parks Department in its reasonable discretion.

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, which policies and procedures shall be subject to Parks Department approval, not to be unreasonably withheld, conditioned or delayed. 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.**

- (a) Manager shall, at its sole cost and expense, repair and maintain the Marina, exclusive of the bulkhead along the Riverwalk which shall be the sole responsibility of the City, in accordance with the Marina Standards. Manager shall make and execute, or supervise and have control over the making and executing of, all decisions concerning the purchase, lease or other acquisition of Personal Marina Property for the Marina. Manager, at its sole cost and expense, shall make and execute, or supervise and have control over the making and executing of, all decisions in connection with performance of routine day-to-day maintenance and repair of the Marina, in accordance with the terms of this Agreement. Manager shall negotiate and supervise all routine maintenance related to the Marina which Manager, in its reasonable discretion, deems necessary or appropriate or which may

be required by Law, the reasonable requests of the Parks Department, and otherwise consistent with the terms of this Agreement. To the extent applicable, Manager shall comply with the requirements of Section 255.20 and 287.055, Florida Statutes in connection with any repair or maintenance expenditures to the Marina.

If Manager fails to properly maintain the Marina as set forth in this Agreement, and City has provided Manager thirty (30) day's prior written notice of such failure, City may, at its option, perform such maintenance or hire a third party to perform such maintenance. Notwithstanding the foregoing, if Manager's failure to maintain the Marina results in an emergency, no prior notice by the City to Manager shall be required. Manager shall reimburse City the actual amounts incurred by City in performing such repairs, plus a five percent (5%) administrative fee, within thirty (30) days after delivering to Manager an invoice for such services.

- (b) City shall be responsible for all capital improvements and capital repairs (collectively or individually, a "Capital Improvement Project") to the Marina. Manager may make recommendations to the City from time to time regarding proposed capital improvements and capital repairs to the Marina and shall make assessments of the Marina Improvements on a monthly basis consistent with Section 13.1 hereof to assist City in planning for needed Capital Improvement Projects, provided that such recommendations shall not be binding upon the City. The Parties acknowledge that collection and use of the revenue generated by the Room Surcharge shall occur in accordance with Section 6.3 of the Redevelopment Agreement. Capital Improvement Project shall mean any repair, replacement or improvement involving a structural or mechanical alteration to any component of the Marina with an estimated useful life of greater than one year, that is necessary to restore or extend its useful life, preserve or enhance its value, ensure continued delivery of Services and operational integrity. Capital Improvement Project expressly includes periodic dredging of the Marina basin and excludes routine maintenance and repairs.

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) Employees, agents and contractors of Manager and Marina Operator shall perform their duties in an efficient and courteous manner. Manager shall ensure 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 or Marina Operator 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 in writing 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 and designated replacement who will be on call at all times for emergencies or other matters related to the operations of the Marina 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 or Marina Operator. 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, agents 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, the Marina Parcel or this Agreement, including but not limited to the terms and conditions of the Submerged Land Lease and FRDAP Grant. 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 and maintain the Marina pursuant to this Agreement.
12. **City Approval.** Manager agrees it will obtain prior written approval from the Parks Department, in its sole discretion, prior to implementing changes on the following matters:
- (1) Changes from the as-built Marina Improvements and Pier Improvements, activities within the Marina, signage and graphics for the Marina;
 - (2) Equipment installation requiring any facility modifications, with any capital improvements in the sole discretion of the City;
 - (3) Modifications of the number of boat slips or changes to the rental or use terms of rental for the Transient Slips;
 - (4) Any use of City's name;
 - (5) Any improvements to be constructed on the Marina Parcel;
 - (6) Routine Uniforms to be used by Manager employees or agents working at the Marina; 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) Improvements status report, including a summary of deferred maintenance issues and schedule of anticipated future capital improvements and capital repairs needs and recommended timing for such capital improvements;
 - (2) All maintenance records;
 - (3) Revenues generated from rental of Transient Slips and fuel sales;
 - (4) Insurance claims and threatened claims;
 - (5) Litigation;
 - (6) Safety and environmental incidents;
 - (7) Patron services issues;
 - (8) All use and leasing activity information as to boat slips, including name of renter, dates of rental and slip number; and
 - (9) Any other reasonable information reasonably requested by City.
14. **Duties of City.** City shall reasonably cooperate with Manager in the performance of its duties under this Agreement and, to that end, execute such documents and instruments as City, in its reasonable judgment, deems necessary or advisable to enable Manager 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, 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 with respect to planning activities and providing other support with respect to the Marina, which at the direction of the City may include an advance reservation system. Any Transient Slip rental fees or other charges relating thereto shall be in the sole discretion of the Parks Department and a part of the Gross Revenues retained by Manager for the operation and maintenance of the Marina.
17. **Submerged Land Lease and FRDAP Grant.**
 - (a) Manager shall timely comply with the provisions of the Submerged Land Lease and FRDAP Grant that are to be observed or performed by City as lessee and grantee, as applicable, thereunder, including, without limitation, the payment of any fees or other charges; provided, however, that the City shall reasonably cooperate with Manager, at no external cost to City, in all respects in furtherance of the foregoing, including by executing such documents approved by the City in its reasonable discretion as may be necessary to allow for Manager to fulfill the foregoing. Manager shall not, by any act or omission, cause City to be in violation of or in default under the Submerged Land Lease or FRDAP Grant. To the extent that the City's cooperation is necessary, City shall reasonably cooperate with

Manager to timely address any alleged violations or defaults under the Submerged Land Lease or FRDAP Grant, at no external cost to City.

- (b) The Submerged Land Lease and FRDAP Grant are incorporated by this reference into this Agreement as if completely restated herein. Manager shall (i) be bound to City by the provisions of the Submerged Land Lease and FRDAP Grant and (ii) perform all of the City's obligations and responsibilities established by the Submerged Land Lease and FRDAP Grant with respect to the Marina and Marina Parcel; provided, however, that the City shall reasonably cooperate with Manager in furtherance of the foregoing, at no external cost to the City, including by executing such documents as may be necessary to allow for Manager to fulfill the foregoing. To the extent that the City's cooperation is necessary, City shall reasonably cooperate with Manager to timely address any alleged violations or defaults under the Submerged Land Lease or FRDAP Grant.
- (c) This Agreement is subject to and subordinate in all respects to the Submerged Land Lease and FRDAP Grant. Manager represents that (i) it has read and is familiar with the provisions of the Submerged Land Lease and FRDAP Grant and (ii) it agrees to be bound by all terms and conditions of the Submerged Land Lease and FRDAP Grant.
- (d) City, in its sole discretion, shall be responsible for the cost of any capital maintenance and capital repairs expenditures as necessary to comply with the Submerged Land Lease and FRDAP Grant. Notwithstanding the foregoing, Manager shall be responsible at its sole cost and expense for the cost of all capital expenditures or other costs incurred as a result of (i) the actions or omission of Manager, Marina Operator or their designees, or (ii) any fees or charges assessed to the City or Manager pursuant to the Submerged Land Lease.
- (e) During the term of this Agreement, City shall use diligent efforts to apply for and diligently pursue renewal of the Submerged Land Lease prior to the end of the then current term thereof.
- (f) The Parties acknowledge that the property subject to the Submerged Land Lease includes the Marina Parcel and submerged lands utilized by the City for, among other things, the operation of Metropolitan Park ("City Parcel"). Notwithstanding anything in this Agreement to the contrary, (i) it shall remain the responsibility of the City to comply with the terms and conditions of the Submerged Land Lease and FRDAP Grant as to the City Parcel and (ii) Manager shall not be responsible, in any manner, for the acts or omissions of the City associated with its operation of the City Parcel.

18. **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 Marina Parcel 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 fuel storage 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 Marina Parcel 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 Marina Parcel 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 Marina Parcel, or Manager identifies or otherwise becomes aware of any noncompliance or alleged non-compliance with any Environmental Requirement by Manager at the Marina Parcel, any threatened or pending claim related to the Marina Parcel 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 provide a written report to City of such circumstance, including 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, Marina Operator or by or on behalf of any governmental authority or potential claimant, related to environmental conditions at the Marina Parcel or the compliance status of the Marina Parcel with respect to any Environmental Requirement.
- (d) Contamination of Marina Parcel. 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, which Release or threatened Release occurs during the Term of this Agreement and results from the acts or omissions of Manager or its agents, employees, contractors and subcontractors, at or from the Marina Parcel 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. Notwithstanding anything in this Agreement to the contrary, City shall remain liable for the Release of any Hazardous Substances which occurred prior to the Effective Date or following expiration or termination of this Agreement.

- (e) **Remediation Plan.** Manager will submit to City a written plan for completing any Environmental Remediation required under this Section, which will be performed by City, if at all, in its sole discretion, except as set forth above. 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 Marina Parcel.
- 19. **Indemnity.** The indemnification obligations of Manager under this Agreement are as set forth on **Exhibit E** attached hereto and incorporated herein by this reference.
- 20. **Insurance.** Manager shall maintain, at Manager's sole cost and expense, the insurance coverages set forth on **Exhibit F** 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 consistent with and as approved by City pursuant to Section 36(g) hereof, the assignee, not Manager, shall 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**.
- 21. **Risk of Loss.** Manager expressly assumes all risk of damage or loss to any Personal Marina 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.
- 22. **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 established by the City in its reasonable discretion and consistent with the requirements of the Submerged Land Lease and FRDAP Grant. The fuel dock shall be open during the same hours as the retail store located at the Marina Support Building (as defined in the Redevelopment Agreement) 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. The Parks Department and the Manager may agree to change the hours of operation if such a change is desirable for providing the best service to the public and is otherwise consistent with the requirements of the Submerged Land Lease and the FRDAP Grant. If it becomes necessary in Manager's reasonable opinion to temporarily cease operation of the Marina in order to protect the Marina and/or the health, safety and welfare of the Patrons and/or employees of the Marina for reasons of force majeure including, but not limited to, natural disasters, 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 operation may be done without jeopardy to the Marina, its Patrons and its 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.

Portions of the Marina may also be temporarily closed, or certain portions of the Marina may be inaccessible, in connection with scheduled maintenance of the Marina, provided that (i) such closure schedule shall minimize the time for such temporary closure and/or inaccessibility, and (ii) unless temporary closure is required due to an emergency as reasonably determined by the Parks Department in its sole discretion, such schedule shall be subject to the prior written approval of City in its sole discretion.

23. **Termination of this Agreement.**

- (a) In addition to the other termination rights of City set forth herein, this Agreement may be terminated by City immediately (i) if Manager has not achieved Substantial Completion, as defined in the Redevelopment Agreement, of the Marina Improvements and Pier Improvements as of the date established in the Redevelopment Agreement, as may be amended or (ii) in the event of a default in the performance of this Agreement by Manager, including but not limited to noncompliance with the Submerged Land Lease or FRDAP Grant, which default shall remain uncured for thirty (30) days after delivery of written notice of such default, provided, however, that if such default is of a non-monetary nature and 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 one-hundred and twenty (120) days, if Manager shall promptly commence to remedy such default upon receipt of written notice of default, and shall thereafter continue with due diligence until completion. 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 transition of the management of the Marina to a successor operator. Within ten (10) days after the termination of this Agreement, or earlier if determined by City, Manager shall remove all of its Personal Marina Property. Any Personal Marina Property not removed within ten (10) days following the termination of this Agreement shall be deemed abandoned and may be removed and disposed of by City in such manner as City shall determine, at the cost of Manager, without any obligation on the part of City to account to Manager for any proceeds therefrom, all of which shall become the property of City. City shall not be liable to Manager for safekeeping for Manager's Personal Marina Property during or after termination of this Agreement. Any default under the Marina Support Building Lease (as defined in the Redevelopment Agreement) shall constitute a default under this Agreement.
- (b) Notwithstanding anything in this Agreement to the contrary, the Term of this Agreement shall automatically expire or terminate upon the expiration or termination for any reason of the Marina Support Building Lease (as defined in the Redevelopment Agreement).

24. **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 materially 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 and such injunction is not lifted within ninety (90) days after such issuance, this Agreement may be terminated by either Party upon thirty (30) days written notice to the other Party.

25. **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.

26. **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 the expiration date of this Agreement. If an audit has been initiated and audit findings have not been resolved at the end of such six (6) year period, 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 all records required to be maintained hereunder 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 hereunder, 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 third-party agreements and records and documents related to the Marina operations of this Agreement, regardless of the form in which kept.

(f) To ensure that all related party transactions by Manager or Marina Operator 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 owes the City or DIA additional monies hereunder or under the Redevelopment Agreement, and the Manager does 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, without waiving any other remedy available at law or in equity.

27. **Storm Preparedness.** Manager shall at all times follow City's then current emergency evacuation and storm plan and protocols, as such protocols may be modified by City from time to time.
28. **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.

29. **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.
30. **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.
31. **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.
32. **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 Marina Parcel or the Marina Improvements and Pier Improvements. 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 Marina Parcel 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.

33. **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.
34. **No City Liability for Expenses.** Except as expressly set forth herein, City shall bear no cost or expense with respect to the routine operation and maintenance of the Marina or use thereof, it being understood that all such costs and expenses shall be solely borne by Manager.
35. **General Agreement Terms.**

(a) **Entire Agreement.**

As to the operation and management of the Marina by Manager, the Parties agree that (i) this Agreement sets forth the entire agreement between the Parties and (ii) 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.

(d) No Waivers; Remedies Cumulative.

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. Each party shall have full remedies available at law and equity, under existing Laws and all state and federal courts of any jurisdiction. 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.

(e) Time is of the Essence.

Parties expressly agree that time is of the essence in the performance by any party of its obligations under this Agreement.

(f) 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.

To City: The City of Jacksonville
Parks, Recreation and Community Services Division
214 N. Hogan Street, 10th Flr.
Jacksonville, Florida 32202
Attn: Deputy

The City of Jacksonville
c/o Downtown Investment Authority
117 W. Duval Street, Suite 300
Jacksonville, Florida 32202
Attn: Chief Executive Officer
Email: boyerl@coj.net

With a copy to: City of Jacksonville
Office of General Counsel

117 W. Duval Street, Suite 480
Jacksonville, Florida 32202
Attn: Corporation Secretary

To Manager:

With a copy to:

(g) Assignment, Subcontracting, Corporation Acquisitions and Mergers.

Other than the hiring of a Marina Operator pursuant to Section 2 of this Agreement, no assignment 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 be withheld in City's sole discretion. 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. 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 approved Marina Operator) from contracting with service providers to provide certain of the Services. In the event of any assignment or other transfer of this Agreement, any such assignee shall sign the Joinder 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 this Agreement without the prior consent of the City in its sole discretion.

(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. 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 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.

(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: _____
Donna Deegan, Mayor

Form Approved:

Office of General Counsel

GC-#1691735-v11-Iguana_-_Marina_Management_Agreement_-_Iguana_post_CC_approval_changes_requested.docx

Signed, sealed and delivered
in the presence of:

SHIPYARDS MARINA FLORIDA, LLC

(Printed Name) _____

By: _____

Name: _____

(Printed Name) _____

Its: _____

Encumbrance and funding information for internal City use:

1Cloud Account for Certification of Funds	Amount

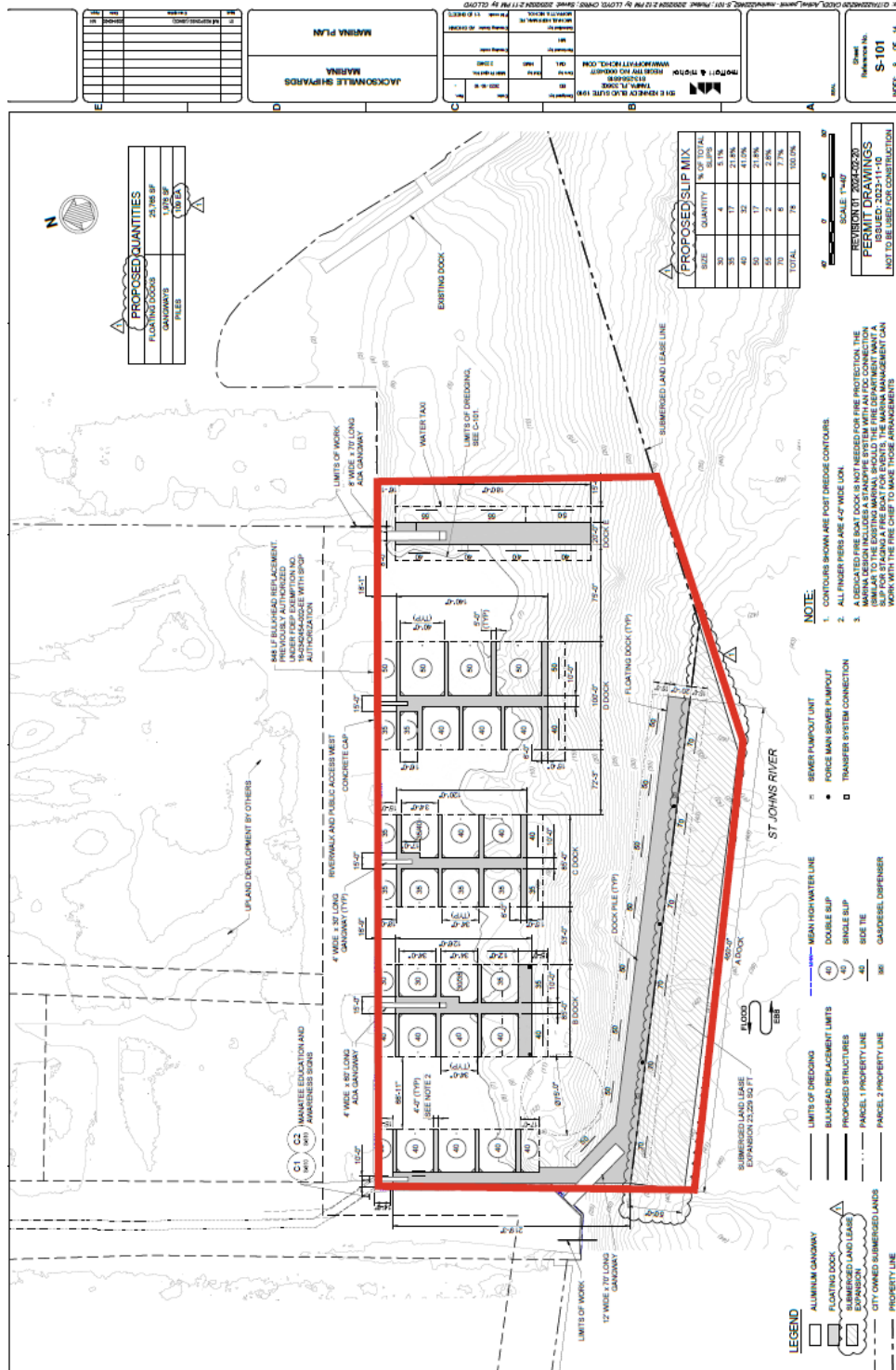
In accordance with the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; however, this certification is not, nor shall it be interpreted as an encumbrance of funding under the contract. Actual encumbrances shall be made by subsequent purchase orders as specified in the contract.

The stated amount is the maximum fixed monetary amount of the contract. It shall not be encumbered by the contract. It shall be encumbered by one or more subsequently issued purchase orders that must reference the contract. All financial examinations and funds control checking will be made at the time such purchase orders are issued.

Director of Finance
City Contract Number: _____

EXHIBIT A

MARINA PARCEL



JACKSONVILLE SHIPYARDS MARINA FUEL & PUMPOUT PLAN		PROJECT NO. 2023-11-10 SHEET NO. S-102 INDEX 10 OF 14
DATE: 11/10/2023 BY: J. B. BROWN CHECKED: J. B. BROWN APPROVED: J. B. BROWN	PROJECT NO. 2023-11-10 SHEET NO. S-102 INDEX 10 OF 14	PROJECT NO. 2023-11-10 SHEET NO. S-102 INDEX 10 OF 14

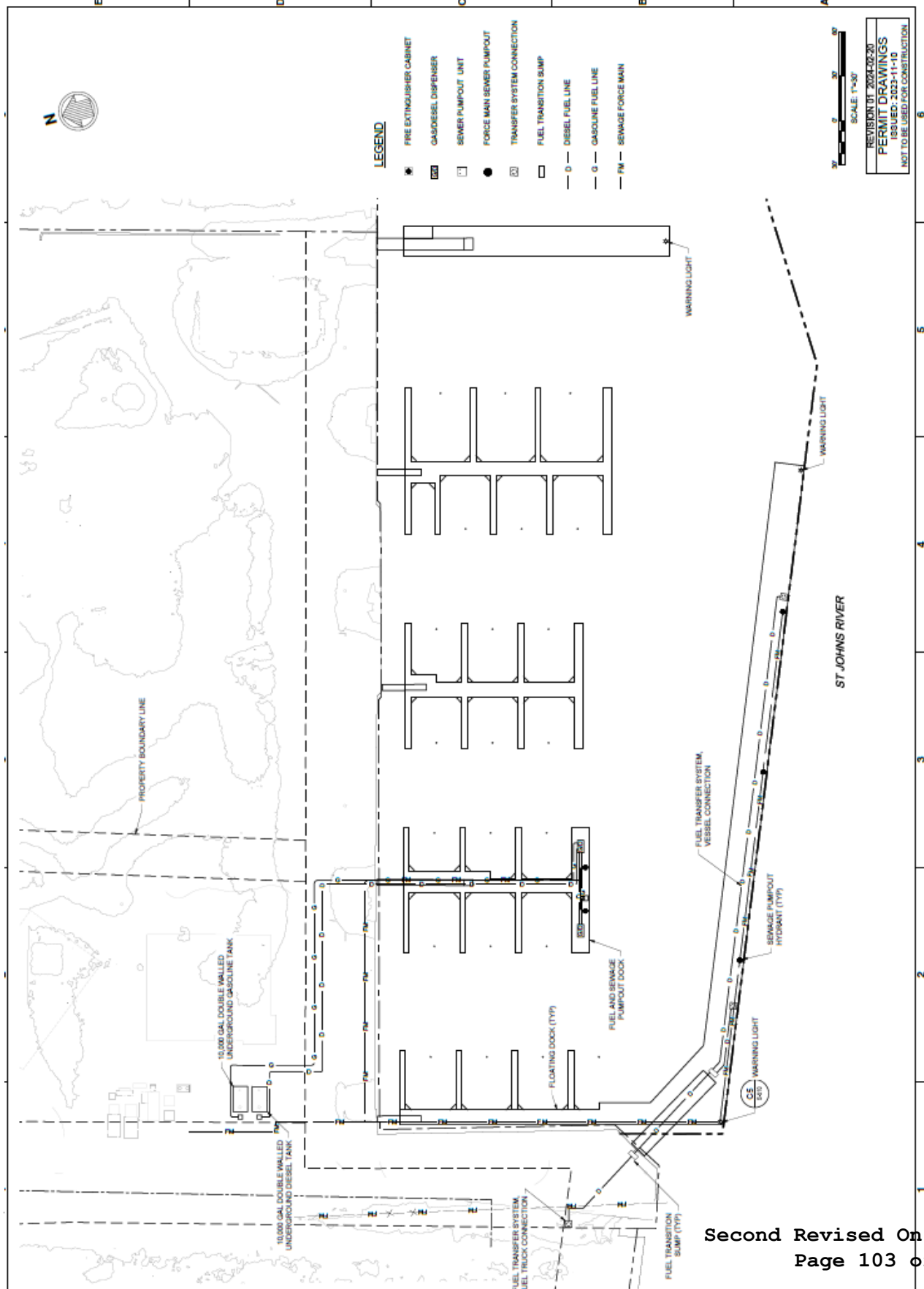


EXHIBIT B
FRDAP Grant

EXHIBIT C

Manager Services

Manager shall provide the following Services to City, at Manager's sole cost and expense:

1. Rental of transient 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 a safe and sanitary condition.
3. All repairs and maintenance of the Marina 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, including Environmental Laws as set forth in Section 18 of this 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 Submerged Land Lease.
7. Any and all other services necessary to operate the Marina in a first-class manner consistent with customary industry standards.

EXHIBIT D

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 non-slip and 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 National Park Service (“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. Dock Fenders/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 fully encapsulated. All Flotation Systems maintain industry standard freeboard.
5. Dock System - Fixed or floating dock systems are well-maintained.
6. Dock/Decking - Decking is constructed with a slip-free surface and is to be clean, free of unnecessary obstructions and tripping hazards (e.g., pop-up screws, degraded wood), and well-maintained. Bull rail, if any, 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. Dock Utilities – Potable water and either 30/20-amp service or 50/30/20-amp service power connection are available at each slip and maintained in operating condition.
9. Pump out stations - Sewage pump out stations are made available, clearly marked for access and use, and well maintained in compliance with Florida Statutes.
10. 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.
11. 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.
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-incidental 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 pedestal and other outdoor 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 – All Marina 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 marina staff confirms slip type and length, duration of stay, departure date and check-out time, and method of payment. The marina staff also identifies any extra charges. 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 the individual design capacity of each slip. 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 federal documentation, if applicable, 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. The form of approved rental agreements, as approved by the City in its reasonable discretion, 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 and insured contractors perform basic vessel maintenance. Moderate or significant vessel maintenance occurs outside the marina.

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. Standard VHF Marine Radio Operating Procedures apply.
2. Emergency Frequency and Protocol - A port operations frequency is maintained with a specific transmission channel and call sign.
3. Incident Reporting – Marina incident reports (in form and content as approved by the City in its reasonable discretion) or FWC 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, manager or assistant manager on duty at all times.
6. General Manager Credentials - The marina general manager possesses a strong background in the marina industry. Other certifications such as Certified 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 E

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, and any of their respective agents, contractors, employees, licensees, customers, guests and invitees, that causes injury to persons (including death) or damage to property, arising out of or related 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 environmental, health and safety liabilities, claims, citations, clean-up or damages arising out of or relating to the Services or other activities performed by Manager or Marina Operator and any of their respective agents, contractors, employees, licensees, customers, guests and invitees under this Agreement for the Term of this Agreement provided that Indemnifying Party shall have no duty to indemnify the Indemnified Parties for environmental conditions caused by the negligent or intentionally wrong acts of third parties not acting on behalf of the Indemnifying Party; 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 any of the indemnification rights established by this exhibit, 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. Failure of an Indemnified Party to provide reasonable notice shall not relieve the Indemnifying Party of its indemnification obligations hereunder, except to the extent the delay materially impacts the Indemnifying Party’s ability to defend or mitigate against the liability. **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. Notwithstanding anything in this Agreement to the contrary, if the Indemnifying Party or its insurer provides a defense to the Indemnified Party hereunder, the Indemnified Party shall allow counsel selected by the Indemnifying Party or its insurer to conduct the Indemnified Party's defense unless the Indemnified Party has reasonable cause to believe such counsel is not capable of providing competent, independent advice and representation and the Indemnifying Party or its insurer, after due notice, refuses to ensure independent counsel. If the Indemnifying Party (or its insurer) provides a defense to the Indemnified Party, the Indemnifying Party shall not be responsible for any costs or attorneys' fees incurred by the Indemnified Party after the Indemnifying Party has provided such a defense, nor shall the Indemnifying Party be liable for any fees or costs incurred by Indemnified Party prior to receipt of a demand for defense and indemnity from the Indemnified Party, unless such expenditures are reasonably necessary to mitigate damages before notice is given to the Indemnifying Party. Any settlement of claim or liability shall be approved by the Indemnified Party, with such approval not to be unreasonably withheld.

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 F

Insurance

Without limiting its liability under this Manager 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
Worker's Compensation Employer's Liability	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, Longshoreman and Harbor Workers Compensation and Jones, and any other applicable federal or state law.

Commercial General Liability	\$5,000,000 General Aggregate \$5,000,000 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.

Automobile Liability (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 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). An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Marina Operators Legal Liability	\$1,000,000 Any One Vessel
	\$1,000,000 Any One Accident/Occurrence

Such insurance shall be provided on a form acceptable to the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits. If the coverage is included on the Marina Operators Legal Liability policy, the Commercial General Liability requirement or the Watercraft Liability requirements can be satisfied with the Marina Operators Legal Liability insurance.

Watercraft Liability (Protection and Indemnity) \$1,000,000 Each Occurrence

To the extent watercraft are utilized in the **Work**, the **Manager** shall purchase and maintain, or cause its Contractors and subcontractors to purchase and maintain, insurance with amounts not less than the limits of \$1,000,000 per occurrence, and which shall, at a minimum, cover the **Manager** and Contractor/subcontractor for injuries or damage arising out of the use of all owned, non-owned and hired watercraft. The City, the City's members, officials, employees and agents, the Engineer, and the Program Management Firm(s) (when program management services are provided) shall be named in the Commercial Watercraft Liability policy as "an additional insured."

Pollution Legal Liability	\$1,000,000 per Loss
	\$2,000,000 Aggregate

The Manager shall maintain Pollution Legal Liability with coverage for clean up costs, bodily injury and property damage for losses that arise from the facility. Such coverage must be provided on an Occurrence Form or, if on a Claims Made Form, the retroactive date must be no later than the first date of this **Agreement** and such claims-made coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

Additional Insurance Provisions

- A. Certificates of Insurance. Manager shall deliver to the City Certificates of Insurance that shows the corresponding **City Agreement or Bid Number** in the Description, **Additional Insureds, Waivers of Subrogation** and **Primary & Non-Contributory statement** as provided below. 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.
- B. Additional Insured: All insurance **except** Worker's Compensation, Professional Liability, AD&D and Crime (if required) 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, if products and completed operations is required, CG2037, Automobile Liability CA2048.

- C. 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.
- 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, officials, 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 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 G

Joinder Agreement

Reference is hereby made to that certain Marina Management 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 [DEVELOPER ENTITY] (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.

_____, 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:

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:

MARINA PARCEL

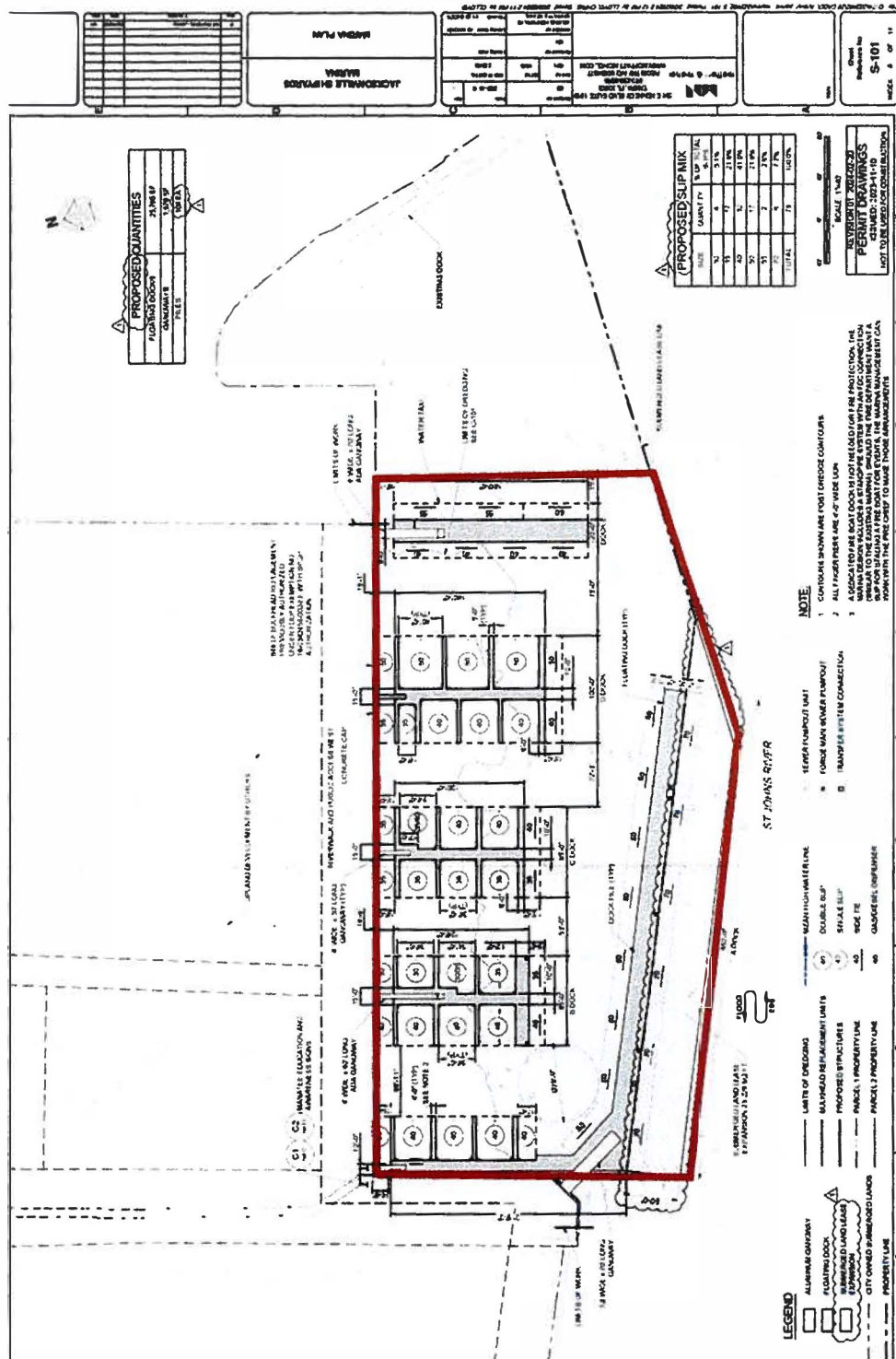


EXHIBIT L

Reserved

EXHIBIT M

Marina Support Building Improvements

Developer shall construct or cause to be constructed the Marina Support Building as single-story structure of not less than 6,000 gross square feet to be constructed on the Marina Support Building Parcel, and shall include a marina office of approximately 540 square feet, marina restrooms totaling approximately 1,530 square feet, a marina sundry retail shop of approximately 714 square feet and a restaurant of approximately 3,746 square feet. The Marina Support Building Improvements shall also include the Events Lawn Improvements as set forth on **Exhibit E** of this Agreement. All designs and construction plans, as well as the construction budget, shall be subject to the approval of the Department of Parks Recreation and Community Services.

EXHIBIT N

Marina Support Building Lease Agreement

LEASE AGREEMENT BETWEEN

CITY OF JACKSONVILLE, a Florida municipal corporation

AS LANDLORD,

AND

SHIPYARDS MARINA FLORIDA, LLC, a Delaware limited liability company

AS TENANT

DATED: _____

BASIC LEASE INFORMATION

Effective Date: _____, **2025**

Landlord: **City of Jacksonville**, a Florida municipal corporation

Tenant: **Shipyards Marina Florida, LLC**, a Delaware limited liability company

Premises: The approximately 6,000 square foot building, together with the exclusive use of an outdoor patio area of approximately ____ square feet in size located to the east of the building, together with non-exclusive right to (x) utilize the patios, walkways, stairways providing operation of, and access to, the Premises, and (y) an enclosed back of the house area consisting of approximately ____ square feet in size located to the west of the building (the “**Back of House Area**”), and (ii) all as more particularly depicted on **Exhibit A** attached hereto. Subject to the prior written approval of Landlord’s Department of Parks, Recreation and Community Services (the “**Parks Department**”) in its sole discretion, Tenant shall have the right to expand the exclusive patio area located to the east of the building and utilize other areas of the patios for exclusive restaurant use from time to time. Tenant shall share the use of the Back of House Area with the [operator] under the Marina Management Agreement (as hereafter defined). Furthermore, the Parks Department of the City may reasonably utilize the dumpsters located in the Back of House Area for disposal of refuse collected from the Events Lawn (as hereafter defined).

Property: The approximately 1.0 acre parcel more particularly described on **Exhibit B** attached hereto on which the Premises is located.

Marina: The public marina commonly known as Metropolitan Park Marina and related improvements and generally located at 1410 East Bay St., Jacksonville, FL 32202.

Marina Management Agreement: The Marina Management Agreement between Landlord and Tenant dated as of _____, as amended from time to time, regarding the management and operation of the Marina.

Project: The Premises, the Property and the Marina, collectively.

Term: An initial term of one hundred twenty (120) months, plus any Extension Terms exercised in accordance with this Lease; provided, however the initial term of one hundred and twenty (120) months may be extended up to ninety (90) days to allow for the build out of tenant improvements for the restaurant located in the Premises in order to allow the initial term of the Restaurant Sublease (as hereafter defined) to be coterminous with the expiration of the initial term of this Lease.

Extension Options: As set forth on **Exhibit D** attached hereto.

Commencement Date: The date upon which the Premises is occupied by Tenant for its intended use and is open to the public but not later than August 30, 2026.

Basic Rent: Fifteen Thousand Dollars (\$15,0000.00) per year less the annual Events Lawn Maintenance Expense.

Security Deposit: N/A

Rent: Basic Rent and all other sums that Tenant may owe to Landlord or otherwise be required to pay under the Lease.

Permitted Use: The Premises shall include a dockmaster office, showers and bathrooms, and a store providing sundries and convenience items for boaters and other members of the public, and also may include other retail, food service, including, without limitation, a restaurant, and support services for the Marina, as such other support services may be approved by Landlord, with such approval not to be unreasonably withheld, conditioned, or delayed, all subject to Laws.

Brokerage Commission: None.

Tenant's Address: For all Notices:

With a copy to::

Attention _____

Telephone: (____) _____

Telecopy: (____) _____

Landlord's Address:

For all Notices:

With a copy to:

City of Jacksonville
Public Works Public Buildings
Division
Attention: Chief of Public Buildings
555 W. 44th Street
Jacksonville, Florida 32208
Telephone: (904) 255-4330

Downtown Investment Authority
117 W. Duval Street, Suite 310
Attention: Chief Executive Officer
Jacksonville, Florida 32202
Telephone: (904) 255-____
Telecopy: (904) 255-____

City of Jacksonville
Public Works Real Estate Division
Attention: Chief of Real Estate
214 Hogan Street, 10th Floor
Jacksonville, Florida 32202
Telephone: (904) 255-8700
Telecopy: (904) 255-8748

Office of General Counsel
117 W. Duval Street, Suite 480
Jacksonville, Florida 32202
Attention: Corporation Secretary
Telephone: (904) 630-1700
Telecopy: (904) 630-1731

The foregoing Basic Lease Information is incorporated into and made a part of the Lease identified above. If any conflict exists between any Basic Lease Information and the Lease, then the Lease shall control.

LEASE

This Lease Agreement (this “**Lease**”) is entered into as of the Effective Date, between **City of Jacksonville**, a Florida municipal corporation (“**Landlord**”), and _____ (“**Tenant**”).

1. **Definitions and Basic Provisions.** The definitions and basic provisions set forth in the Basic Lease Information (the “**Basic Lease Information**”) executed by Landlord and Tenant contemporaneously herewith are incorporated herein by reference for all purposes. Additionally, the following terms shall have the following meanings when used in this Lease: “**Premises Structure**” means the exterior walls, roof, elevator shafts, footings, foundations, structural portions of load-bearing walls, structural floors and subfloors, structural columns and beams, and patios of the Premises; “**Premises Systems**” means the HVAC, life-safety, plumbing, electrical, and mechanical systems serving the Premises, some of which may be located within the Back of House Area on the Property that also serves the Marina; “**including**” means including, without limitation; “**Laws**” means any generally applicable permit, law, statute, code, rule, regulation, ordinance, order, judgment, decree, writ, injunction, franchise or license of any governmental, quasi-governmental and/or regulatory national, state, county, city or other local entity with jurisdiction over the Premises, including, all generally applicable, relevant, or appropriate Florida Statutes, City of Jacksonville Ordinances, any regulation and rules found in Florida Administrative Code; whether now existing or in the future enacted, promulgated, adopted, entered, or issued, whether by any national, state, county, city or other local entity, including the Americans With Disabilities Act of 1990, any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time, and all interpretations of each of the foregoing, both within and outside present contemplation of the parties hereto, and all restrictive covenants affecting the Project, and “**Law**” shall mean any of the foregoing; “**Tenant’s Off-Premises Equipment**” means any of Tenant’s equipment or other property that may be located on or about the Project serving the Premises; “**Landlord Party**” means any of the following persons: Landlord and its assignees, transferees, and subtenants, and any of their respective agents, contractors, employees, licensees, customers, guests and invitees; “**Tenant Party**” means any of the following persons: Tenant and its assignees, transferees, and subtenants, and any of their respective agents, contractors, employees, licensees, customers, guests and invitees; “**Redevelopment Agreement**”) means that certain Amended and Restated Redevelopment Agreement originally among Landlord, the Downtown Investment Authority (“**DIA**”), and Shipyards Hotel, LLC, dated March 30, 2023, and that certain Second Amended and Restated Redevelopment Agreement among the Landlord, DIA and Shipyards Trustee Jacksonville, LLC, dated _____, 2025, as subsequently amended from time to time; “**Marina Drive Parking Spaces**” means those parking spaces constructed by an affiliate of Tenant that are located in the public drive located immediately to the west of the Property consisting of not less than thirty-four (34) parking spaces that are open to the public for the use of the Premises and the Marina.

2. **Lease Grant.** Subject to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises for the Term. Notwithstanding anything in this Lease to the contrary, the Term shall automatically expire or terminate upon the expiration or termination for any reason of the Marina Management Agreement.

3. **Tender of Possession.** Landlord shall deliver possession of the Premises to Tenant on the Effective Date. Except as expressly set forth herein, Tenant shall be deemed to have accepted the Premises in its AS-IS, WHERE IS condition as of the date of such delivery. Except as expressly set forth herein, Landlord shall not be required to make any improvements, alterations or other modifications to the Premises or otherwise in connection with the commencement of this Lease. Tenant acknowledges that neither Landlord nor any member, officer, employee or agent of Landlord has made any representation or warranty with respect to the Premises or any portion thereof or with respect to the suitability of same for the Permitted Use.

4. **Rent**

Tenant shall timely pay Basic Rent to Landlord, without notice, demand, deduction or set off except as expressly set forth herein, by good and sufficient check drawn on a state chartered or national banking association at Landlord's address provided for in this Lease or as otherwise specified by Landlord and shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Rent and the obligations of Landlord under this Lease are independent obligations. Basic Rent, adjusted as herein provided, shall be payable annually in arrears. The first annual installment of Basic Rent shall be payable within sixty (60) days of the one year anniversary of the Commencement Date; thereafter, Basic Rent shall be payable annually thereafter. The annual Basic Rent for any partial year at the end of the Term shall equal the product of 1/365 of the annual Basic Rent in effect during the partial year and the number of days in the partial year and shall be due within sixty (60) days of the end of the Lease. In submitting the annual payment of Basic Rent, Tenant shall submit to Landlord an accounting for the calculation of the Events Lawn Maintenance Expense for such year, together with supporting documentation as reasonably requested by Landlord (which may include paid invoices, statements of work performed and affidavits related thereto), together with Tenant's calculation of Basic Rent due for such previous lease year. Tenant will maintain accounting books and records in accordance with generally accepted accounting principles as applied to similar enterprises in connection with the Events Lawn Maintenance Expense. Tenant agrees that Landlord, or its designees, including but not limited to the City Council auditors, may inspect audit, and examine, at its cost, such books and records for the purpose of determining the accuracy of the Events Lawn Maintenance Expense during the Tenant's regular business hours.

5. **Delinquent Payment; Handling Charges.** Landlord, in addition to all other rights and remedies available to it, may charge Tenant a fee equal to five percent (5%) of any delinquent payment to reimburse Landlord for its cost and inconvenience incurred as a consequence of Tenant's delinquency. In no event, however, shall the charges permitted under this Section 5 or elsewhere in this Lease, to the extent they are considered to be interest under applicable Law, exceed the maximum lawful rate of interest. Notwithstanding the foregoing, the late fee referenced above shall not be charged with respect to any payment made within ten (10) days of its due date.

6. **Operating Covenant.**

Subject to temporary closures caused by a Force Majeure Event, a casualty, condemnation, or renovations not to exceed one hundred eighty (180) consecutive days (as permitted pursuant to

Section 8 below), during the Term, as amended or extended, Tenant shall, and shall cause all of its subtenants, other than any restaurant operator (the “**Restaurant Subtenant**”) using a portion of the Premises for restaurant use pursuant to a sublease with Tenant (a “**Restaurant Sublease**”), to continuously and uninterruptedly operate no less frequently than seven (7) days per week, three hundred sixty-five (365) days per year during those minimum hours established or approved by Parks Department and Tenant in their commercially reasonable discretion, for the Permitted Use in an efficient, professional and first-class manner and maintain a full staff of trained, experienced and qualified employees, in accordance with the terms of this Lease and all Laws. Notwithstanding anything in this Lease to the contrary, Tenant shall cause the retail store located on the Premises to sell sundries, ice and other necessities for Marina patrons daily from 8:00 a.m. to 6:00 p.m. (unless different hours are requested by Tenant and approved by the Parks Department of the City in writing from time to time) and Tenant agrees that such retail store may not be closed during those hours unless the Marina operation temporarily ceases pursuant to the terms of the Marina Management Agreement. Any Restaurant Sublease shall be exempt from complying with this operating covenant provided that the Restaurant Sublease requires the tenant thereunder to operate a restaurant at least five (5) days a week for a minimum of eight (8) hours each day, exclusive of any City legal holiday. Landlord (through the Parks Department) and Tenant (or any Restaurant Subtenant) shall coordinate use of the Events Lawn (as defined in the Redevelopment Agreement) for events using the protocols established from time to time by the Parks Department for calendaring and reserving such events, including, without limitation, using reasonable efforts to (i) coordinate scheduling of larger events with as much advance notice as is reasonably possible, but in no event less than thirty (30) days’ notice, and (ii) ensuring that such events are compatible with the surrounding public and private uses (Marina, restaurants, and hotel), as determined by Landlord in its reasonable discretion. For the avoidance of doubt, Landlord and Tenant understand and agree that, except as otherwise specifically agreed in writing by the Parks Department, Landlord, through the Parks Department, shall be solely responsible for scheduling events for, and making reservations for the use of, the Events Lawn. Furthermore, Landlord agrees that during the Term of this Lease, Landlord shall maintain the amount of Marina Drive Parking Spaces initially constructed by an affiliate of Tenant for the benefit of the Premises and the Marina.

7. Net Lease.

Except as otherwise expressly provided in this Lease, this Lease is an absolutely net lease, and the Rent shall be paid to Landlord without notice, demand, counterclaim, set-off, deduction, or defense, and without abatement, suspension, deferment, diminution or reduction, free from any charges, assessments, impositions, expenses or deductions of any and every kind or nature whatsoever except as expressly set forth herein. All costs, expenses and obligations of every kind and nature whatsoever, whether foreseen or unforeseen, in any way relating to the condition, maintenance, repair, operation, management, use and/or occupancy of the Premises that may arise or become due during the Term (as it may be extended) shall be paid by Tenant unless caused by Landlord’s negligence or willful misconduct. Without limiting the foregoing, Tenant shall be responsible for the payment of all taxes, assessments whether general or special, license fees, insurance costs, operating costs, utility costs, management and administrative fees, maintenance and repair costs (including capital maintenance and capital repairs to the extent of sufficient funding therefor via an allocation of the Room Surcharge (as defined in the Redevelopment Agreement). operation costs, construction costs, and any other costs, expenses, sums, and charges which arise in connection with the management, condition, maintenance, repair, operation, use

and/or occupancy of the Premises, including all structures, improvements and property located thereon unless caused by Landlord's negligence or willful misconduct. All of such costs, expenses, sums, and charges shall constitute Rent, and upon the failure of Tenant to pay any such costs, charges or expenses, Landlord shall have the same rights and remedies as otherwise provided in this Lease for the failure of Tenant to pay Rent. As used herein, "capital maintenance and capital repairs" shall mean any repair, replacement or improvement involving a structural or mechanical alteration to any component of the Premises (including but not limited to the Premises Structure and Premises Systems) with an estimated useful life of greater than one year, that is necessary to restore or extend its useful life, preserve or enhance its value, ensure continued delivery of Services and operational integrity, and excludes routine maintenance and repairs.

8. Improvements; Alterations; Repairs; Maintenance.

(a) **Improvements; Alterations.** The Tenant accepts the subject Premises in its "as is" "where is" condition. No improvements, alterations or physical additions in or to the Premises may be made without Landlord's prior written consent, which consent shall be in Landlord's sole discretion with respect to capital maintenance or capital repairs but subject to the terms of the Redevelopment Agreement regarding use of the Room Surcharge proceeds; provided that Landlord shall not unreasonably withhold its consent to any non-structural alterations which are not visible from the exterior of the Premises. Notwithstanding the foregoing sentence, (i) Tenant shall be permitted to make interior, non-structural cosmetic improvements to the Premises such as repainting and recarpeting, costing in the aggregate of not more than \$50,000 per consecutive twelve (12) month period, without Landlord's prior written consent, and (ii) the Restaurant Subtenant shall be permitted to make non-structural alterations from time to time to the extent allowed under the approved Restaurant Sublease costing in the aggregate of not more than \$50,000 per consecutive twelve (12) month period. Subject to potential funding under the Redevelopment Agreement, all alterations, additions, and improvements shall be diligently pursued and constructed, maintained, and used by Tenant, at its risk and expense, in accordance with all Laws. Landlord's consent to or approval of any alterations, additions or improvements (or the plans therefor) shall not constitute a representation or warranty by Landlord, nor Landlord's acceptance, that the same comply with sound architectural and/or engineering practices or with all applicable Laws, and Tenant shall be solely responsible for ensuring all such compliance.

(b) **Repairs; Maintenance.** Except as expressly set forth herein, Tenant shall maintain the Premises in first-class condition and repair, and in a clean, sanitary and safe condition. Tenant shall ensure that during the Term the Premises and the Premises Systems are in good working order and in compliance with all Laws related to Tenant's specific use of the Premises for the Permitted Use. Tenant shall not permit or allow to remain any waste or damage to any portion of the Premises or Premises Systems. Additionally, Tenant, at its sole expense, shall repair, replace and maintain in good condition and in accordance with all Laws and the equipment manufacturer's suggested service programs, all portions of Tenant's Off-Premises Equipment and all other areas, improvements and systems serving the Premises. Tenant shall repair or replace, subject to Landlord's direction and supervision, any damage to the Project caused by any Tenant Party and any damage to the Premises during the Term, unless caused by the negligence or willful misconduct of Landlord or any Landlord Party. If Tenant fails to make such repairs or replacements within fifteen (15) business days after Tenant's receipt of written notice from Landlord of the occurrence of such damage, then Landlord may make the same at Tenant's cost.

The actual and reasonable cost of all maintenance, repair or replacement work performed by Landlord under this Section 8 shall be paid by Tenant to Landlord within thirty (30) days after Landlord has invoiced Tenant as Rent plus a sum equal to five percent (5%) thereof representing Landlord's administrative expense. Landlord and Tenant acknowledge and agree that the collection and use of the revenue generated by the Room Surcharge shall occur in accordance with Section 6.3 of the Redevelopment Agreement. Tenant shall be permitted to make capital improvements or capital repairs to the Premises that it deems are reasonably necessary and which are approved by Landlord in writing in its sole discretion.

Except as expressly set forth herein, Tenant shall maintain the Events Lawn in good condition and repair in a manner consistent with the adjacent class A office building located immediately to the north of the Events Lawn, and in any event, in a manner that is no less than the standard maintained by the City for similar parks, and in a clean, sanitary and safe condition (the "Events Lawn Maintenance Expense"). Tenant's maintenance responsibilities include routine repair and replacement of plant materials (as applicable); provided, however, repair or replacement caused by the Landlord or any Landlord Party shall be the sole responsibility of Landlord. Furthermore, Landlord shall be responsible for any capital repairs to the Events Lawn unless such damage necessitating the repair was caused by a Tenant Party, including, but not limited, to any resodding of the Events Lawn. If either Tenant or Landlord fails to make such repairs or replacements within fifteen (15) business days after receipt of written notice from the other party of the need for such repair or replacement, then either Landlord or Tenant (as applicable) may make the same at the other party's cost. The actual and reasonable cost of all maintenance, repair or replacement work performed by a party under this Section 8 due to the other party's failure to fulfill its responsibilities hereunder shall be paid by such to the repairing party within thirty (30) days after receipt of a proper invoice and backup documentation. Notwithstanding anything to the contrary in this paragraph, Landlord's time frames to make repairs or replacements or to make payment shall automatically extend for any period of time that may be reasonably necessary for Landlord to appropriate funds or procure services to fulfill its obligations under this paragraph. Landlord and Tenant acknowledge and agree that the collection and use of the revenue generated by the Room Surcharge shall occur in accordance with Section 6.3 of the Redevelopment Agreement. Tenant shall be permitted to make capital improvements or capital repairs to the Events Lawn that it deems are reasonably necessary and which are approved by Landlord in writing in its sole discretion.

To the extent applicable, in connection with expenditures by Tenant hereunder for maintenance and repairs, inclusive of any expenditures of the Room Surcharge proceeds for capital maintenance and capital repairs, Tenant shall comply with the requirements of Section 255.20 and 287.055, Florida Statutes in connection with any repair or maintenance expenditures to the Premises.

(c) **Performance of Work.** All work described in this Section 8 shall be performed only by contractors approved in writing by Landlord, with such approval not to be unreasonably withheld, conditioned, or delayed; provided, however, that any contractor associated with initially constructing the Premises shall be deemed approved. Tenant shall cause all contractors and subcontractors to procure and maintain insurance coverage naming Landlord, and Landlord's property management company, if any, as "additional insured" against such risks, in such commercially reasonable amounts, and with such companies as Landlord may reasonably

require. Upon written request of Landlord, Tenant shall provide Landlord with the identities and relevant contact information of all persons performing work or supplying materials prior to beginning such construction and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable Laws. All such work shall be performed in accordance with all Laws and in a good and workmanlike manner so as not to damage the Premises (including the Premises Structure and the Premises Systems). Except as expressly set forth herein, including, without limitation, any repairs or replacements to the Premises Systems required to be made by Tenant as set forth above, Tenant is not authorized to perform any such work which may affect (i) the Premises Structure or (ii) the Premises Systems located outside of that portion of the Premises that is subject to the Restaurant Sublease. Tenant shall not utilize any vendors, contractors or subcontractors on Landlord's Disqualified Vendor List, nor any person or entity that has been placed on the State of Florida Convicted Vendor List. On an annual basis during the term of this Lease, Tenant shall provide a list of all contractors and subcontractors providing services to the Premises along with a certification that such vendors are not ineligible as a result of being placed on the Disqualified Vendor List or the State of Florida Convicted Vendor List.

(d) **Mechanic's Liens.** Tenant shall have no power to do any act or make any contract that may create or be the foundation of any lien, mortgage or other encumbrance upon the reversionary or other estate of Landlord, or any interest of Landlord in the Premises. NO CONSTRUCTION LIENS OR OTHER LIENS FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED TO THE PREMISES SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN AND TO THE PREMISES OR THE PROPERTY. All work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party shall be deemed authorized and ordered by Tenant only, and Tenant shall keep the Premises and the Property free from any liens arising in connection therewith. Upon completion of any such work, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work. If such a lien is filed, then Tenant shall, within twenty (20) days after Landlord has delivered notice of the filing thereof to Tenant (or such earlier time period as may be necessary to prevent the forfeiture of the Premises, the Property or any interest of Landlord therein or the imposition of a civil or criminal fine with respect thereto), 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 Landlord a bond or other security reasonably satisfactory to Landlord. If Tenant fails to timely take either such action, then Landlord may discharge the lien. The actual amount paid by Landlord to discharge the lien (whether directly or by bond), plus all actual and reasonable administrative and legal costs incurred by Landlord, along with interest which shall accrue at the Default Rate, shall be paid by Tenant to Landlord as Additional Rent within thirty (30) days of written demand. Landlord and Tenant acknowledge and agree that their relationship is and shall be solely that of "landlord-tenant" (thereby excluding a relationship of "owner-contractor," "owner-agent" or other similar relationships). The parties hereto agree that in no event shall the interest of Landlord be subject to the liens for improvements made by Tenant, and this expressly prohibits such liability. Pursuant to Section 713.10, Florida Statutes, this provision specifically provides that no interest of Landlord shall be subject to liens for improvements made by the Tenant at or under Tenant's direction. This provision shall serve as notice to all potential construction lienors that Landlord shall not be liable for and the Premises shall not be subject to liens for work performed or materials supplied at Tenant's request or at the request of anyone claiming an interest by, through or under Tenant. Further, any contractor, vendor, supplier or other party providing work or services to and for the Premises that is entitled to a mechanic's lien pursuant to Chapter

713, Florida Statutes, shall look solely to the leasehold interest of the Tenant in the Lease and may not encumber the fee title to the Premises owned by the Landlord. Tenant shall provide notice of this provision to all contractors, vendors, suppliers, and other parties providing work or materials at the Premises. The foregoing provision shall be included in any recorded notice under Section 713.10, Florida Statutes, or memorandum of this Lease. Tenant shall defend, indemnify and hold harmless Landlord and its agents and representatives from and against all third-party 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 Tenant Party to pay for any work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party. The remedies provided herein shall be in addition to all other remedies available to Landlord under this Lease or otherwise. This Section 8(d) shall survive the expiration or earlier termination of this Lease.

TENANT SHALL NOTIFY ANY CONTRACTOR PERFORMING ANY CONSTRUCTION WORK IN THE PREMISES ON BEHALF OF TENANT THAT THIS LEASE SPECIFICALLY PROVIDES THAT THE INTEREST OF LANDLORD IN THE PREMISES SHALL NOT BE SUBJECT TO LIENS FOR IMPROVEMENTS MADE BY TENANT, AND NO MECHANIC'S LIEN OR OTHER LIEN FOR ANY SUCH LABOR, SERVICES, MATERIALS, SUPPLIES, MACHINERY, FIXTURES OR EQUIPMENT SHALL ATTACH TO OR AFFECT THE STATE OR INTEREST OF LANDLORD IN AND TO THE PREMISES, THE PROPERTY, OR ANY PORTION THEREOF. IN ADDITION, LANDLORD SHALL HAVE THE RIGHT TO POST AND KEEP POSTED AT ALL REASONABLE TIMES ON THE PREMISES ANY NOTICES WHICH LANDLORD SHALL BE REQUIRED SO TO POST FOR THE PROTECTION OF LANDLORD AND THE PREMISES FROM ANY SUCH LIEN. TENANT AGREES TO PROMPTLY EXECUTE SUCH INSTRUMENTS IN RECORDABLE FORM IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF FLORIDA STATUTE SECTION 713.10.

9. **Use.** Tenant shall continuously occupy, excluding the portion of the Premises governed by any Restaurant Sublease, and use the Premises only for the Permitted Use, subject to temporary closures for Force Majeure Events and renovations (so long as such renovations are permitted under this Lease and are being diligently and continuously pursued), and shall comply at its sole cost and expense with all Laws relating to Tenant's specific use, condition, access to, and occupancy of the Premises for the Permitted Use. Tenant will not commit waste, overload the Premises Structure or the Premises Systems or subject the Premises to use that would damage the Premises. The Premises shall not be used for any use which is disreputable, creates extraordinary fire hazards (provided that open fire grills may be used by the Restaurant Subtenant), or results in an increased rate of insurance on the Premises or its contents, or for the storage of any Hazardous Materials (other than typical supplies for the Permitted Use) and then only in compliance with all Laws. If, because of a Tenant Party's acts or because Tenant vacates the Premises, the rate of insurance on the Premises or its contents increases, then such acts shall be an Event of Default subject to all applicable notice and cure periods, Tenant shall pay to Landlord the actual and reasonable amount of such increase within thirty (30) days after Tenant's receipt of written demand, and acceptance of such payment shall not waive any of Landlord's other rights, except that such payment shall be deemed to cure the default if such increase was due to the nature of the use of the Premises rather than abandonment. Tenant shall conduct its business and control each other Tenant Party so as not to create any nuisance, unreasonably interfere with other tenants, or use the Premises for any unlawful purpose. Tenant will be

responsible for and obtain all licenses, permits, inspections and other approvals necessary for the operation of the Premises as contemplated by this Lease.

10. Assignment and Subletting.

(a) Transfers.

Tenant shall not (1) assign, transfer, or encumber this Lease or any estate or interest herein, whether directly or by operation of law, (2) permit any other entity to become Tenant hereunder by merger, consolidation, or other reorganization, (3) sublease any portion of the Premises, other than to the initial Restaurant Sublease as previously approved by Landlord, (4) grant any license, concession, or other right of occupancy of any portion of the Premises, (5) permit the transfer of an ownership interest in Tenant so as to result in a change of control of Tenant, (6) permit the use of the Premises by any parties other than Tenant (any of the events listed in Section 10(a)(1) through 10(a)(6) being a “**Transfer**”), without Landlord’s prior written consent in its sole discretion; provided, however, Landlord shall use its reasonable discretion in approving any sublease in accordance with Section 10(b) below.

Notwithstanding anything contained herein to the contrary, the following events are not considered a Transfer under this Section 10: (i) a change in ownership of Tenant as a result of a merger, consolidation, reorganization, or joint venture; or (ii) the Transfer of this Lease to any entity that controls, is controlled by, or is under common control with Tenant. Tenant is not required to obtain Landlord’s consent and Landlord shall not delay, alter, or impede any of the foregoing transactions or combinations thereof, provided, however, that any Transfer to a transferee pursuant to subsection (ii) above shall be pursuant to an assignment and assumption agreement in form and content reasonably acceptable to the Landlord.

(c) Consent Standards. Landlord shall not unreasonably withhold its consent to any subletting or licensing of the Premises, provided that the proposed transferee: (1) is creditworthy, (2) has a good reputation in the business community, (3) will use the Premises for the Permitted Use and will not use the Premises in any manner that would conflict with any agreement entered into by Landlord with respect to the Project, and (4) is not a governmental entity, or subdivision or agency thereof; otherwise, Landlord may withhold its consent in its sole discretion. Additionally, Landlord may withhold its consent in its sole discretion to any proposed Transfer if any uncured Event of Default by Tenant then exists. Without limiting the foregoing, Tenant agrees that it shall be reasonable for Landlord to withhold its consent to a proposed Transfer of all or substantially all of the Premises or the non-restaurant component of the Premises if the proposed assignee or sublessee does not have sufficient prior marina operating experience in Landlord’s reasonable discretion (and Tenant shall provide Landlord with evidence of such experience simultaneously with its request regarding such proposed assignment or sublease); provided, however, this sentence shall not apply to any Restaurant Sublease or other sublease of any space at the Premises that is not with the operator of the Marina.

(d) Request for Consent.

If Tenant requests Landlord's consent to a Transfer, then, to the extent that Landlord requests the items enumerated later in this sentence in writing, Tenant shall provide Landlord at

least fifteen (15) business days prior to the effective date of the proposed Transfer with (i) a written description of all terms and conditions of the proposed Transfer, (ii) copies of the proposed documentation (inclusive of the final form of sublease, if applicable), and (iii) the following information about the proposed transferee: name and address; reasonably satisfactory information about its business and business history; its proposed use of the Premises; banking, financial, or other credit information, general references, and/or such other documentation reasonably requested by Landlord sufficient to enable Landlord to determine the proposed transferee's creditworthiness and character. If Landlord fails to respond to Tenant's request for consent within 15 business days after Tenant provides such consent, such consent shall be deemed given by Landlord. Concurrently with Tenant's notice of any request for consent to a Transfer, Tenant shall pay to Landlord a fee of \$750.00 to defray Landlord's expenses in reviewing such request.

(e) Conditions to Consent.

If Landlord consents to a proposed Transfer to an assignee (and not a sublease), then the proposed assignee shall deliver to Landlord a written agreement whereby it expressly assumes Tenant's obligations hereunder; however, any assignee (and not a sublease) of less than all of the space in the Premises shall be liable only for obligations under this Lease that are properly allocable to the space subject to the Transfer for the period of the Transfer. No Transfer shall release Tenant from its obligations under this Lease, but rather Tenant and its transferee shall be jointly and severally liable therefor. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers. If an uncured Event of Default occurs while the Premises or any part thereof are subject to a Transfer, then Landlord, in addition to its other remedies, may collect directly from such transferee all rents becoming due to Tenant and apply such rents against Rent. Tenant authorizes its transferees to make payments of rent directly to Landlord upon receipt of notice from Landlord to do so following the occurrence of an Event of Default hereunder. Tenant shall pay for the cost of any demising walls or other improvements necessitated by a proposed subletting or assignment.

(f) Attornment by Subtenants.

Each sublease by Tenant hereunder shall be subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and each subtenant by entering into a sublease is deemed to have agreed that in the event of termination, re-entry or dispossession by Landlord under this Lease, Landlord may, at its option, take over all of the right, title and interest of Tenant, as sublandlord, under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the provisions of such sublease, except that Landlord shall not be (1) liable for any previous act or omission of Tenant under such sublease, (2) subject to any counterclaim, offset or defense that such subtenant might have against Tenant, (3) bound by any previous modification of such sublease not approved by Landlord in writing or by any rent or additional rent or advance rent which such subtenant might have paid for more than the current month to Tenant, and all such rent shall remain due and owing, notwithstanding such advance payment, (4) bound by any security or advance rental deposit made by such subtenant which is not delivered or paid over to Landlord and with respect to which such subtenant shall look solely to Tenant for refund or reimbursement, or (5) obligated to perform any work in the subleased space or to prepare it for occupancy, and in connection with such attornment, the subtenant shall execute and deliver to Landlord any instruments Landlord may reasonably request to evidence and confirm

such attornment. Each subtenant or licensee of Tenant shall be deemed, automatically upon and as a condition of its occupying or using the Premises or any part thereof, to have agreed to be bound by the terms and conditions set forth in this Section 10(e); provided, however, that subject to the foregoing limitations in items (1) through (5) above, notwithstanding anything to the contrary contained in this Lease, the Restaurant Subtenant's obligation to attorn to Landlord is subject to and conditioned upon the non-disturbance of Restaurant Tenant's sub-leasehold estate, use, possession, tenancy, rights, options, and occupancy under the Restaurant Sublease, so long as no default exists and is continuing beyond the expiration of any applicable grace, notice, and cure period under such Restaurant Sublease by Restaurant Subtenant. The provisions of this Section 10(e) shall be self-operative, and no further instrument shall be required to give effect to this provision; provided, however, Landlord agrees to enter into a subordination, non-disturbance and attornment agreement with any Restaurant Subtenant approved by Landlord in accordance with this Lease in form reasonably acceptable to Landlord.

11. Insurance and Indemnity.

(a) **Insurance.** See **Exhibit E**, the terms of which are incorporated herein by reference.

(b) **Indemnity.** See **Exhibit F**, the terms of which are incorporated herein by reference.

12. Condemnation.

(a) **Total Taking.** If the entire Premises is taken by right of eminent domain or conveyed in lieu thereof (a "**Taking**"), this Lease shall terminate as of the date of the Taking.

(b) **Partial Taking - Tenant's Rights.** If any part of the Premises becomes subject to a Taking and such Taking will prevent Tenant from conducting on a permanent basis its business in the Premises in a manner reasonably comparable to that conducted immediately before such Taking, then Tenant may terminate this Lease as of the date of such Taking by giving written notice to Landlord within 30 days after the Taking, and Basic Rent shall be apportioned as of the date of such Taking. If Tenant does not terminate this Lease, then Rent shall be abated on a reasonable basis as to that portion of the Premises rendered untenable by the Taking.

(c) **Partial Taking - Landlord's Rights.** If any material portion, but less than all, of the Premises becomes subject to a Taking, then Landlord may terminate this Lease by delivering written notice thereof to Tenant within 30 days after such Taking, and Basic Rent shall be apportioned as of the date of such Taking. If Landlord does not so terminate this Lease, then this Lease will continue, but if any portion of the Premises has been taken, Rent shall abate as provided in the last sentence of Section 12(b).

(d) **Temporary Taking.** If all or any portion of the Premises becomes subject to a Taking for a limited period of time, this Lease shall remain in full force and effect and Tenant shall continue to perform all of the terms, conditions and covenants of this Lease, including the payment of Rent and all other amounts required hereunder. Landlord shall be entitled to the entire award for any such temporary condemnation or other taking. If any such temporary condemnation or other taking terminates prior to the expiration of the Term, Tenant, at Tenant's election, shall

restore the Premises as nearly as possible to the condition prior to the condemnation or other taking, at Tenant's sole cost and expense; provided that, Tenant shall receive the portion of the award attributable to such restoration.

(e) **Award**. If any Taking occurs, then Landlord shall receive the entire award or other compensation for the Premises and other improvements taken; however, Tenant may separately pursue a claim (to the extent it will not reduce Landlord's award) against the condemnor for the value of Tenant's personal property and any tenant improvements made to the Premises which Tenant is entitled to remove under this Lease or any approved sublease, moving costs, loss of business, and other claims it may have.

13. **Fire or Other Casualty.**

If, at any time during the Term, the Premises, or any portion thereof, should be materially damaged or destroyed by any fire or any other casualty, then Tenant shall promptly give written notice thereof to Landlord. All property insurance proceeds available to Tenant shall be used to repair and restore the Premises, provided that if the total amount of insurance proceeds for such claims ("**Insurance Proceeds**") exceeds \$50,000, the same shall be paid into an escrow account, with a single escrow agent which shall be appointed jointly by Landlord and Tenant, both parties agreeing to use reasonable efforts to agree on such appointment. Payments from such escrow account shall conform to the usual and reasonable disbursement requirements of Landlord. Subject to Tenant's receipt of insurance proceeds sufficient to restore, repair and/or rebuild the damaged or destroyed structures and other improvements, and Tenant's lender permits the use of such proceeds, Tenant shall, at its sole cost and expense, restore, repair and/or rebuild the damaged or destroyed structures and other improvements to the condition that such structures and improvements existed prior to such casualty, including all fixtures, systems and equipment. Such restorations, repairs, and rebuilding shall be commenced as soon as practicable following the occurrence of such damage or destruction and shall thereafter be prosecuted continuously to completion with diligence. Notwithstanding the foregoing, unless the destruction or damage was due to Tenant's gross negligence or willful misconduct, if the then-existing Term is equal to or less than ten (10) years or the cost of restoring the Premises shall exceed fifty percent (50%) of the replacement cost of the Premises, Tenant shall have the right to terminate this Lease by giving the City Representative written notice of Tenant's election to do so within one hundred twenty (120) days after the date on which such damage or destruction occurred, and upon such notice being given, the Lease Term shall automatically terminate and end effective as of the date of damage or destruction. If Tenant terminates this Lease pursuant to this Section 13, all Insurance Proceeds payable with respect to any casualty at the Premises shall be paid to and retained by Landlord. If Tenant fails to maintain the insurance required under this Lease, the amount of Insurance Proceeds shall be deemed to be the amount Tenant would have collected had Tenant maintained the insurance required with a reputable third-party insurer and Tenant shall pay such amount to Landlord.

14. **Personal Property Taxes.** Tenant shall be liable for all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises or Project. If any taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and Landlord elects to pay the same, or if the assessed value of Landlord's property is increased by inclusion of such personal property, furniture or fixtures and Landlord elects to pay

the taxes based on such increase, then Tenant shall pay to Landlord, within 30 days following written request therefor, the part of such taxes for which Tenant is primarily liable hereunder; however, Landlord shall not pay such amount if Tenant notifies Landlord that it will contest the validity or amount of such taxes before Landlord makes such payment, and thereafter diligently proceeds with such contest in accordance with Law and if the non-payment thereof does not pose a threat of loss or seizure of the Project or interest of Landlord therein or impose any fee or penalty against Landlord.

15. **Events of Default.** Each of the following occurrences shall be an “**Event of Default**”:

(a) **Payment Default.** Tenant’s failure to pay any Rent within ten (10) days after Tenant receives written notice from Landlord that such Rent is overdue; provided that, if Landlord has given such notice twice in any twelve (12) month period any subsequent failure by Tenant to pay any Rent as and when due shall constitute an immediate Event of Default;

(b) **Abandonment.** Except for temporary closures permitted in this Agreement, Tenant (1) abandons or vacates the Premises or any substantial portion thereof for a period of ten (10) consecutive days, or (2) fails to continuously operate its business in the Premises and such failure continues for ten (10) days after Landlord’s written notice thereof to Tenant, provided that, if Landlord has given such notice once any subsequent failure by Tenant in the ensuing 365 days to continuously operate shall constitute an immediate Event of Default, or (3) fails to operate the Premises in connection with any special event days as authorized and defined under the Submerged Land Lease for the Marina; provided, however, that in the event of a closure of any restaurant or food service use pursuant to any Restaurant Sublease, Tenant shall have up to eighteen (18) months, with one, consecutive, six (6) month extension if requested by Tenant, after Landlord’s written notice to Tenant to enter into a new Restaurant Sublease in accordance with this Lease, the failure of which shall be an Event of Default;

(c) **Estoppel.** Tenant fails to provide any estoppel certificate after Landlord’s written request therefor pursuant to Section 21(e) and such failure shall continue ten (10) business days after Landlord’s second written notice to thereof to Tenant;

(d) **Insurance.** Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Section 11(a) and such failure shall continue for five (5) business days after Landlord’s written notice thereof to Tenant;

(e) **Mechanic’s Liens.** Tenant fails to pay and release of record, or diligently contest and bond around, any mechanic’s lien filed against the Premises or the Property for any work performed, materials furnished, or obligation incurred by or at the request of Tenant, within the time and in the manner required by Section 8(d);

(f) **Other Defaults.** Tenant’s failure to perform, comply with, or observe any other agreement or obligation of Tenant under this Lease and the continuance of such failure for a period of more than 30 days after Landlord has delivered to Tenant written notice thereof (provided, that if the cure of such Tenant Default reasonably requires more than thirty (30) days to complete, then Tenant is not in default if Tenant promptly commences the cure of such Tenant Default and

diligently pursues such cure to completion, but in no event longer than 120 days, as extended for Force Majeure Events; and

(g) **Insolvency**. The filing of a petition by or against Tenant (the term “Tenant” shall include, for the purpose of this Section 15(g), any guarantor of Tenant’s obligations hereunder) (1) in any bankruptcy or other insolvency proceeding; (2) seeking any relief under any state or federal debtor relief law; (3) for the appointment of a liquidator or receiver for all or substantially all of Tenant’s property or for Tenant’s interest in this Lease; (4) for the reorganization or modification of Tenant’s capital structure; or (5) in any assignment for the benefit of creditors proceeding; however, if such a petition is filed against Tenant, then such filing shall not be an Event of Default unless Tenant fails to have the proceedings initiated by such petition dismissed within 90 days after the filing thereof.

(h) **Cross Default**.

Any monetary or material non-monetary default, continuing beyond any applicable notice and cure periods, under the Marina Management Agreement.

Any notice periods provided for under this Section 15 shall run concurrently with any statutory notice periods and any notice given hereunder may be given simultaneously with or incorporated into any such statutory notice.

16. **Remedies**. Upon any Event of Default, Landlord may, in addition to all other rights and remedies afforded Landlord hereunder or by law or equity, take any one or more of the following actions:

(a) **Termination of Lease**. Terminate this Lease by giving Tenant written notice thereof, in which event Tenant shall immediately surrender possession of the Premises to Landlord for Landlord’s account, and pay to Landlord the sum of (1) all accrued Rent and other sums hereunder required to be paid through the date of termination, and (2) all amounts due under Section 17(a);

(b) **Termination of Possession**. Terminate Tenant’s right to possess the Premises in accordance with applicable Law without terminating this Lease by giving written notice thereof to Tenant, in which event Tenant shall immediately surrender possession of the Premises to Landlord for Tenant’s account and pay to Landlord (1) all Rent and other amounts accrued hereunder to the date of termination, (2) all amounts due from time to time under Section 17(a), and (3) all Rent and other net sums required hereunder to be paid by Tenant during the remainder of the Term, diminished by any net sums thereafter received by Landlord through reletting the Premises during such period, after deducting all costs incurred by Landlord in reletting the Premises. If Landlord elects to proceed under this Section 16(b), Landlord may remove all of Tenant’s property from the Premises and store the same in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, without becoming liable for any loss or damage which may be occasioned thereby. Landlord shall use good faith efforts to mitigate its damages in the event of an Event of Default by making commercially reasonable efforts to relet the Premises on such terms as Landlord in its sole discretion may determine (including a term different from the Term, rental concessions, and alterations to, and improvement of, the Premises); however, Landlord shall

not be obligated to accept any prospective tenant proposed by Tenant unless such proposed tenant meets all of Landlord's commercially reasonable leasing criteria. Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or to collect rent due for such reletting. Tenant shall not be entitled to the excess of any consideration obtained by reletting over the Rent due hereunder. Reentry by Landlord in the Premises shall not affect Tenant's obligations hereunder for the unexpired Term; rather, Landlord may, from time to time, bring an action against Tenant to collect amounts due by Tenant, without the necessity of Landlord's waiting until the expiration of the Term. Unless Landlord delivers written notice to Tenant expressly stating that it has elected to terminate this Lease, all actions taken by Landlord to dispossess or exclude Tenant from the Premises shall be deemed to be taken under this Section 16(b). If Landlord elects to proceed under this Section 16(b), it may at any time elect to terminate this Lease under Section 16(a);

(c) **Perform Acts on Behalf of Tenant.** Perform any act Tenant is obligated to perform under the terms of this Lease and enter upon the Premises in connection therewith if necessary, without being liable for any claim for damages therefor unless caused by Landlord's gross negligence or willful misconduct. Except in the case of an emergency (as determined in the Landlord's sole judgment), Landlord shall notify Tenant in writing at least 48 hours prior to entering the Premises. In all events, Tenant shall reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease (including, but not limited to, collection costs and legal expenses), plus interest thereon at the interest rate of ten percent (10%) per annum (the "**Default Rate**"); or

17. Payment by Tenant; Non-Waiver; Cumulative Remedies.

(a) **Payment by Tenant.** Upon any Event of Default, Tenant shall pay to Landlord all actual and reasonable costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in (1) obtaining possession of the Premises, (2) removing and storing Tenant's or any other occupant's property, (3) repairing, restoring, altering, remodeling, or otherwise putting the Premises into condition acceptable to a new tenant, (4) if Tenant is dispossessed of the Premises and this Lease is not terminated, reletting all or any part of the Premises (including brokerage commissions, cost of tenant finish work, and other costs incidental to such reletting), (5) performing Tenant's obligations which Tenant failed to perform, and (6) enforcing, or advising Landlord of, its rights, remedies, and recourses arising out of the default; provided, however, items (3) and (4) shall not be applicable to any portion of the Premises utilized by a Restaurant Sublease other than to the extent required to restore the Premises to the condition as existed as of the Effective Date hereof, together with any tenant improvements added to such portion of the Premises for restaurant use and approved by Landlord, normal wear and tear excepted. To the full extent permitted by law, Landlord and Tenant agree the state courts of the state in which the Premises are located shall have exclusive jurisdiction over any matter relating to or arising from this Lease and the parties' rights and obligations under this Lease.

(b) **No Waiver.** Landlord's acceptance of Rent following an Event of Default shall not waive Landlord's rights regarding such Event of Default. No waiver by Landlord of any violation or breach of any of the terms contained herein shall waive Landlord's rights regarding any future violation of such term. Landlord's acceptance of any partial payment of Rent shall not waive Landlord's rights with regard to the remaining portion of the Rent that is due, regardless of

any endorsement or other statement on any instrument delivered in payment of Rent or any writing delivered in connection therewith; accordingly, Landlord's acceptance of a partial payment of Rent shall not constitute an accord and satisfaction of the full amount of the Rent that is due.

(c) **Cumulative Remedies.** Any and all remedies set forth in this Lease: (1) shall be in addition to any and all other remedies Landlord may have at law or in equity, (2) shall be cumulative, and (3) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future. Additionally, Tenant shall defend, indemnify and hold harmless Landlord, and its representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees) arising from Tenant's failure to perform its obligations under this Lease and as outlined in **Exhibit F.**

18. **Waiver of Landlord's Lien.** Landlord hereby waives all liens, statutory or otherwise, in all of Tenant's property situated in or upon, or used in connection with, the Premises, and all proceeds thereof (except merchandise sold in the ordinary course of business) (collectively, the "**Collateral**").

19. **Surrender of Premises.**

No act by Landlord shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. At the expiration or earlier termination of this Lease, Tenant shall deliver to Landlord the Premises with all improvements located therein at least as good a condition as existed on the Commencement Date, with all of Tenant's obligations related to the condition of the Premises performed, broom-clean, reasonable wear and tear (and condemnation and Casualty damage not caused by Tenant, as to which Sections 13 and 14 shall control) excepted, and shall deliver to Landlord all keys to the Premises. Provided that Tenant has performed all of its obligations hereunder, Tenant may remove all unattached trade fixtures, furniture, and personal property placed in the Premises by Tenant (but Tenant may not remove any such item which was paid for, in whole or in part, by Landlord or any wiring or cabling unless Landlord requires such removal). Additionally, at Landlord's option, Tenant shall remove such alterations, additions, improvements, trade fixtures, personal property, equipment, wiring, conduits, cabling, and furniture (including Tenant's Off-Premises Equipment) as Landlord may request; however, Tenant shall not be required to remove any addition or improvement to the Premises or the Project if Landlord has specifically agreed in writing that the improvement or addition in question need not be removed. Tenant shall repair all damage caused by such removal. All items not so removed shall, at Landlord's option, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant and without any obligation to account for such items; any such disposition shall not be considered a strict foreclosure or other exercise of Landlord's rights in respect of the security interest granted under Section 19. The provisions of this Section 20 shall survive the end of the Term.

20. **Holding Over.**

If Tenant fails to vacate the Premises at the end of the Term, then Tenant shall be a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over, (a) Tenant shall pay, in addition to the other Rent, Basic Rent equal to or (1) 150% of the fair market value for similar space utilized for a similar use as the Permitted Use; provided, however, with respect to any holdover pursuant to a Restaurant Sublease, Tenant shall only be required to pay holdover rent with respect to the portion of the Premises occupied by the Restaurant Sublease if the Restaurant Tenant fails to make rental payments directly to the City in accordance with the Restaurant Sublease during such holdover term, and (b) Tenant shall otherwise continue to be subject to all of Tenant's obligations under this Lease. The provisions of this Section 20 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure. Notwithstanding anything contained in this Lease to the contrary, in no event shall Tenant be liable to Landlord or Landlord be liable to Tenant for any special, indirect, punitive, or consequential damages.

21. **Certain Rights Reserved by Landlord.** Provided that the exercise of such rights does not unreasonably interfere with Tenant's occupancy of the Premises, Landlord shall have the following rights:

(b) **Security.** To take such reasonable measures as Landlord deems reasonably advisable for the security of the Premises and its occupants; evacuating the Premises for cause, suspected cause, or for drill purposes;

(c) **Prospective Purchasers and Lenders.** Upon providing at least 48 hours prior written notice to Tenant, to enter the Premises at all reasonable hours to show the Premises to prospective purchasers or lenders;

(d) **Prospective Tenants.** At any time during the last six (6) months of the Term (or earlier if Tenant has notified Landlord in writing that it does not desire to renew the Term) or at any time following the occurrence of an uncured Event of Default, and upon providing at least 48 hours prior written notice to Tenant, to enter the Premises at all reasonable hours to show the Premises to prospective tenants.

22. **Miscellaneous.**

(a) **Landlord Transfer.** Landlord may transfer any portion of the Premises and/or Property and any of its rights under this Lease. If Landlord assigns its rights under this Lease, then Landlord shall thereby be released from any further obligations hereunder arising after the date of transfer, provided that the assignee assumes in writing Landlord's obligations hereunder arising from and after the transfer date.

(b) **Landlord's Liability.** The liability of Landlord to Tenant (or any person or entity claiming by, through or under Tenant) for any default by Landlord under the terms of this Lease or any matter relating to or arising out of the occupancy or use of the Premises and/or this Lease shall be limited to Tenant's actual direct, but not consequential, damages therefor and shall

be subject to the limitations and provisions of Section 768.28, Florida Statutes (which provisions are not waived, altered or expanded).

(c) **Force Majeure**. Other than for Tenant's obligations under this Lease that can be performed by the payment of money (e.g., payment of Rent and maintenance of insurance), whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, pandemics, epidemics, quarantines, lockdowns, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the control of such 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 and shall be proximately caused by such Force Majeure Event.

In the event of any delay or nonperformance resulting from any of the foregoing events, the party affected shall notify the other in writing within ten (10) calendar days of the Force Majeure Event. Such written notice shall describe the nature, cause, date of commencement, and the anticipated impact of such delay or nonperformance, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected, and shall describe the actions reasonably taken to minimize the impact thereof.

(d) **Brokerage**. Each party hereto hereby represents and warrants to the other that in connection with this Lease, the party so representing and warranting has not dealt with any real estate broker, agent or finder, and, to its knowledge no broker initiated or participated in the negotiation of this Lease or is entitled to any commission in connection with this Lease. Each party hereto will indemnify the other against any inaccuracy in such party's representation. No commission is due for this Lease.

(e) **Estoppel Certificates**. From time to time, Tenant shall furnish to any party designated by Landlord, within twenty (20) days after Landlord has made a request therefor, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Lease as Landlord may reasonably request. Unless otherwise required by or a prospective purchaser of the Premises or Property, the initial form of estoppel certificate to be signed by Tenant is attached hereto as **Exhibit C**. If Tenant does not deliver to Landlord the certificate signed by Tenant within such required time period, Landlord, and any prospective purchaser, may conclusively presume and rely upon the following facts: (1) this Lease is in full force and effect, (2) the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord, (3) not more than one monthly installment of Basic Rent and other charges have been paid in advance, (4) there are no claims against Landlord nor any defenses or rights of offset against collection of Rent or other charges, and (5) Landlord is not in default under this Lease. In such event, Tenant shall be estopped from denying the truth of the presumed facts.

From time to time, Landlord shall furnish to Tenant, within twenty (20) days after Tenant has made a request therefor, a certificate signed by Landlord confirming and containing such factual certifications and representations as to this Lease as Tenant may reasonably request.

(f) **Notices.** All notices and other communications given pursuant to this Lease shall be in writing and shall be (1) mailed by first class, United States Mail, postage prepaid, certified, with return receipt requested, and addressed to the parties hereto at the address specified in the Basic Lease Information, (2) hand delivered to the intended addressee, or (3) sent by a nationally recognized overnight courier service. All notices shall be effective upon delivery to the address of the addressee, except if a party fails or refuses to collect certified mail. In that instance, the notice shall be effective on the date the second delivery is attempted, whether or not the party collects the certified mail after the second delivery attempt. The parties hereto may change their addresses by giving notice thereof to the other in conformity with this provision. If the deadline or date of performance for any act under the provisions of this Lease falls on a Saturday, Sunday, or City legal holiday the date shall be extended to the next business day.

(g) **Severability.** If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

(h) **Amendments; Binding Effect.** This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease is for the sole benefit of Landlord and Tenant, and, no third party shall be deemed a third party beneficiary hereof.

(i) **Quiet Enjoyment.** Provided Tenant has performed all of its obligations hereunder, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

(j) **No Merger.** There shall be no merger of the leasehold estate hereby created with the fee estate in the Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Lease or any interest in this Lease and the fee estate in the leasehold Premises or any interest in such fee estate.

(k) **No Offer.** The submission of this Lease to Tenant shall not be construed as an offer, and Tenant shall not have any rights under this Lease unless Landlord executes a copy of this Lease and delivers it to Tenant.

(l) **Entire Agreement.** This Lease constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to the other with respect to this

Lease or the obligations of Landlord or Tenant in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Lease or any exhibits or amendments hereto.

(m) **Waiver of Jury Trial.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.

(n) **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the state in which the Premises are located.

(o) **Recording.** Tenant shall not record this Lease or any memorandum of this Lease without the prior written consent of Landlord, which consent may be withheld or denied in the sole and absolute discretion of Landlord, and any recordation by Tenant shall be a material breach of this Lease. Tenant grants to Landlord a power of attorney to execute and record a release releasing any such recorded instrument of record that was recorded without the prior written consent of Landlord.

(p) **Joint and Several Liability.** If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Term, including payment obligations with respect to Rent and all obligations concerning the condition and repair of the Premises.

(q) **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 Lease.

(r) **Notice Concerning Radon Gas.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a structure in sufficient quantities, may present health risks to persons who are exposed to it. Levels of radon that exceed Federal and State guidelines have been found in buildings in the State of Florida. Additional information regarding radon and radon testing may be obtained from the county public health unit. Landlord makes no representation to Tenant concerning the presence or absence of radon gas in the Premises at any time or in any quantity. By executing this Lease, Tenant expressly releases Landlord from any loss, claim, liability, or damage now or hereafter arising from or relating to the presence at any time of such substances in the Premises.

(s) **No Liability for Crimes.** Landlord makes no representations or warranties with respect to crime in the area, undertakes no duty to protect against criminal acts and shall not be liable for any injury, wrongful death or property damage arising from any criminal acts. Landlord may, from time to time, employ security personnel and equipment, however, such personnel and equipment are only for the protection of Landlord's property. Landlord reserves the right, in its sole discretion, to start, alter or terminate any such security services upon providing at least 30

days prior written notice to Tenant. Tenant is urged to provide security for its invitees, its own personnel, and property as it deems necessary. Tenant is urged to obtain insurance to protect against criminal acts.

(t) **Authority.** Tenant (if a corporation, partnership or other business entity) hereby represents and warrants to Landlord that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Tenant has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Tenant is authorized to do so. Landlord hereby represents and warrants to Tenant that Landlord is a municipal corporation, that Landlord has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Landlord is authorized to do so. The Mayor and Corporation Secretary shall have the authority to cancel this Lease under any circumstances wherein Landlord has a legal right to cancel this Lease in accordance with the provisions hereof.

(u) **Environmental Requirements.**

(1) **Prohibition against Hazardous Materials.** Except for Hazardous Materials contained in products used by Tenant in de minimis quantities for ordinary cleaning and office purposes in accordance with all Government Requirements, Tenant shall not cause or permit any party to bring any Hazardous Materials upon the Premises or Property or transport, treat, store, use, generate, manufacture, dispose, or release any Hazardous Materials on or from the Premises. Tenant shall promptly deliver to Landlord a copy of any notice of violation it receives relating to the Premises or the Property of any Government Requirements relating to Hazardous Materials. Tenant shall promptly deliver to Landlord a copy of any notice of violation it receives relating to the Premises or the Property of any Government Requirements relating to Hazardous Materials. To the extent authorized by law, Tenant is and shall be deemed to be the responsible party, including the “owner” and/or “operator” and/or “generator” and/or “arranger” of Tenant’s “facility” and the “owner” of all Hazardous Materials brought on the Premises or the Property by a Tenant Party and the wastes, by-products, or residues generated, resulting, or produced from those items.

(2) **Removal of Hazardous Materials.** Tenant, at its sole cost and expense, shall remove or remediate all Hazardous Materials generated, stored, treated, disposed of, or otherwise released or permitted to be released by a Tenant Indemnitee onto or from the Premises or the Property after the date of this Lease, in a manner and to a level satisfactory to Landlord in its reasonable discretion, that complies with all applicable Government Requirements, and that does not rely on engineered barriers or vapor mitigation systems except as approved by Landlord. If Tenant fails to perform the work within the time period specified by applicable Government Requirement or before Tenant’s right to possession terminates or expires (whichever is earlier), Landlord may at its discretion, and without waiving any other remedy available under this Lease or at law or in equity (including an action to compel Tenant to perform the work), perform the work at Tenant’s cost. Tenant shall pay all actual and reasonable costs incurred by Landlord in performing the work within thirty (30) days after Landlord’s request. All work that Landlord performs is on behalf of Tenant, and Tenant remains the owner, generator, operator, transporter, and/or arranger of the Hazardous Materials for purposes of Government Requirements. Tenant

agrees to not enter into any agreement with any person, including any governmental authority, regarding the removal of Hazardous Materials that have been disposed of or otherwise released onto or from the Premises or the Property without the written approval of Landlord, which approval shall not be unreasonably withheld or unduly delayed.

(3) Tenant's Indemnity. Tenant shall indemnify and defend Landlord (with counsel, consultants, and experts reasonably acceptable to Landlord) Landlord against all Losses, which are brought or recoverable against, or suffered or incurred by Landlord as a result of any release of Hazardous Materials caused by a Tenant Indemnitee or any breach of the requirements under this Section 22 by a Tenant Indemnitee, except to the extent caused by Landlord's negligence or willful misconduct. The indemnity set forth in this Section 22 shall survive the expiration or earlier termination of this Lease.

(4) Landlord's Rights. Landlord shall have access to, and a right but not the obligation to perform inspections and tests of, the Premises to determine Tenant's compliance with Governmental Requirements and Tenant's obligations under this Section 22, the presence of Hazardous Materials at the Premises, or other environmental condition of the Premises. Access shall be granted to Landlord upon Landlord's 48 hours prior written notice to Tenant and at times so as to minimize, so far as may be reasonable under the circumstances, any disturbance to Tenant's operations. Landlord's inspections and tests shall be conducted at Landlord's expense, unless they reveal that Tenant has not complied with any Governmental Requirement or has breached any of its obligations under this Section 22, in which case Tenant shall reimburse Landlord for the reasonable cost of the inspection and tests upon demand. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against Tenant. Tenant shall promptly notify Landlord of any communication or report that Tenant receives from or makes to any governmental authority regarding any possible violation of Laws or release or threat of release of any Hazardous Materials onto or from the Premises or the Property. Promptly after Tenant receives any documents or correspondence from any governmental agency or other party relating to a possible violation of Governmental Requirements or claim or liability associated with the release or threat of release of any Hazardous Materials onto or from the Premises or the Property, Tenant shall deliver a copy to Landlord.

(5) Limitations on Tenant's Liability. Tenant's obligations under this Section 22(v) shall not apply to any condition or matter constituting a violation of any Governmental Requirements: (i) which existed prior to the commencement of Tenant's use or occupancy of the Premises; (ii) which was not caused, in whole or in part, by Tenant or any Tenant Party; or (iii) to the extent such violation is caused by, or results from the negligence of Landlord or any Landlord Party.

(v) Sovereign Immunity. Notwithstanding anything in this Lease to the contrary, the Landlord is governed by the provisions of Section 768.28, Florida Statutes, and nothing in this Lease shall be deemed to be a further waiver of the limited waiver of sovereign immunity afforded Landlord as set forth therein.

(w) **Timeliness.** If the deadline or date of performance for any act under the provisions of this Lease falls on a Saturday, Sunday, or City legal holiday, the date shall be extended to the next business day.

(x) **Reservation of Rights.** Pursuant to Section 122.428(g), *Ordinance Code*, the Landlord reserves the right to terminate this Lease under any circumstances that threaten the public health or safety, or where the Lease creates an adverse impact on the Landlord's tax-exempt bond status.

(y) **No Warranty by Landlord.** Pursuant to Section 122.428(h), *Ordinance Code*, nothing hereunder shall constitute a warranty of the feasibility of Tenant's use or the current or ongoing quality or conditions of the improvements or their suitability for Tenant's purposes, the competence or qualifications of any third party furnishing services, labor or materials whether or not Landlord has approved the contract for third party activities, or any other form of warranty or indemnity, including any indemnity for attorneys' fees. By executing this Lease, Tenant acknowledges that Tenant has not relied and will not rely upon any experience, awareness or expertise of the Landlord, or Landlord's employees, agents or contractors and shall acknowledge that the Landlord's only responsibility under the provisions of this Lease is to provide quiet enjoyment. Landlord shall not be liable to Tenant for any damages arising from Tenant's use of the Premises, the Property or the improvements located thereon, whether economic, noneconomic, general or special, incidental or consequential, statutory, or otherwise, arising out of the presence or operation of Tenant's activities on City-owned real property.

(z) **Discrimination.** Tenant shall not discriminate against any person on the basis of race, creed, color, sex, religion, national origin, age, marital status, disability or any other protected class under applicable law in its use, operation and management of the Premises.

(aa) **List of Exhibits.**

All exhibits and attachments attached hereto are incorporated herein by this reference.

- Exhibit A - Premises
- Exhibit B - Description of the Property
- Exhibit C - Form of Tenant Estoppel Certificate
- Exhibit D - Extension Option
- Exhibit E- Insurance Requirements
- Exhibit F- Indemnity Provisions

23. Representations and Warranties; Indemnity.

(a) **Tenant's Representations and Warranties.** Tenant hereby represents and warrants that:

- (i) It is not designated as an individual or entity that has been determined to have committed, or poses a significant risk of committing, acts of terrorism that threaten the security of the U.S. nationals or the national security, foreign policy, or economy of the

U.S., which would violate the Executive Order 13224, entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," which became effective on September 24, 2001 (the "Order"); and

- (ii) It is not owned or controlled by, or acting on behalf of an individual or entity which would violate the Order, and
- (iii) It has not and will never assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated in or under the Order; and
- (iv) It is not otherwise associated with certain individuals or entities designated in or under the Order.
- (v) It is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list or under any statute executive order (including, but not limited to the Order), or other governmental action and is not an shall not engage in any dealings or transaction or be otherwise associated with such persons or entities.

(b) **Tenant's Indemnity.** Tenant hereby agrees to defend, indemnify, and hold harmless the Landlord, and its respective employees, agents, officers, members, managers, directors and shareholders from and against any and all third-party fines, penalties, actions, claims, damages, losses, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing warranties and representations in this Section 23.

LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER.

(c) **Landlord's Representations and Warranties.**

- (i) Landlord is the owner in fee simple of all of the Premises.
- (ii) Landlord is not bankrupt or insolvent under any applicable Federal or state standard, has not filed for protection or relief under any applicable bankruptcy or creditor protection statute and has not been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute. Landlord is not entering into this Lease with an intent to defraud any creditor or to

prefer the rights of one creditor over any other. Landlord and Tenant have negotiated this Lease at arms-length and the consideration paid represents fair value for the assets to be transferred.

- (iii) Landlord is not a party to any litigation, condemnation, quasi-judicial, administrative or other proceedings or court order, affecting the Premises, and Landlord has not received any notice from any governmental or quasi-governmental authority that the Premises in not in compliance with any applicable Law.
- (iv) Landlord has not entered into any, and to Landlord's knowledge there are no unrecorded leases, rights of first refusal, options or other contracts affecting the Premises which are not referred to in this Lease and, after the Effective Date of this Lease, Landlord shall not enter into any new lease, right of first refusal, option or other contract affecting the Premises.

(d) **Landlord's Indemnity.** Landlord hereby agrees to defend, indemnify, and hold harmless the Tenant, and its respective employees, agents, officers, members, managers, directors and shareholders from and against any and all third party fines, penalties, actions, claims, damages, losses, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing warranties and representations.

(The remainder of this page is intentionally left blank. Signature page to follow.)

This Lease is executed on the respective dates set forth below, but for reference purposes, this Lease shall be dated as of the date first above written. If the execution date is left blank, this Lease shall be deemed executed as of the date first written above.

ATTEST:

By: _____
James R. McCain, Jr.,
Corporation Secretary

LANDLORD:

CITY OF JACKSONVILLE, a Florida municipal
corporation

By: _____
Donna Deegan, Mayor

Form Approved:

Office of General Counsel

TENANT:

SHIPYARDS MARINA FLORIDA, LLC, a Florida
limited liability company

By: _____
Name: _____
Title: _____
Execution Date: _____

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EXHIBIT A

PREMISES

The description of the Premises shall be inserted and incorporated as part of this Exhibit A upon completion of construction and prior to execution of this Lease.

EXHIBIT B

DESCRIPTION OF THE PROPERTY

Marina Support Building Parcel

An approximately 1.0-acre parcel of real property located on the southernmost portion of the property known as Kids Kampus and depicted as the “Marine Support Parcel” on the attached survey map. The Marina Support Building Parcel is bounded on the north by the southernmost boundary of the Office Building Parcel, bounded on the east by the JEA Easement recorded in OR Book 11109 at page 1942 and on the west by the JEA Easement recorded in OR Book 17483 at page 2143 and is a depth of approximately 257.29 feet on the easterly boundary and 259.94 feet on the westerly boundary as measured from the northerly boundary of the Parcel. The Marina Support Building Parcel will be retained by the City and operated as a park and public facility subject to the terms and conditions of this Lease.

[See sketch following page.]

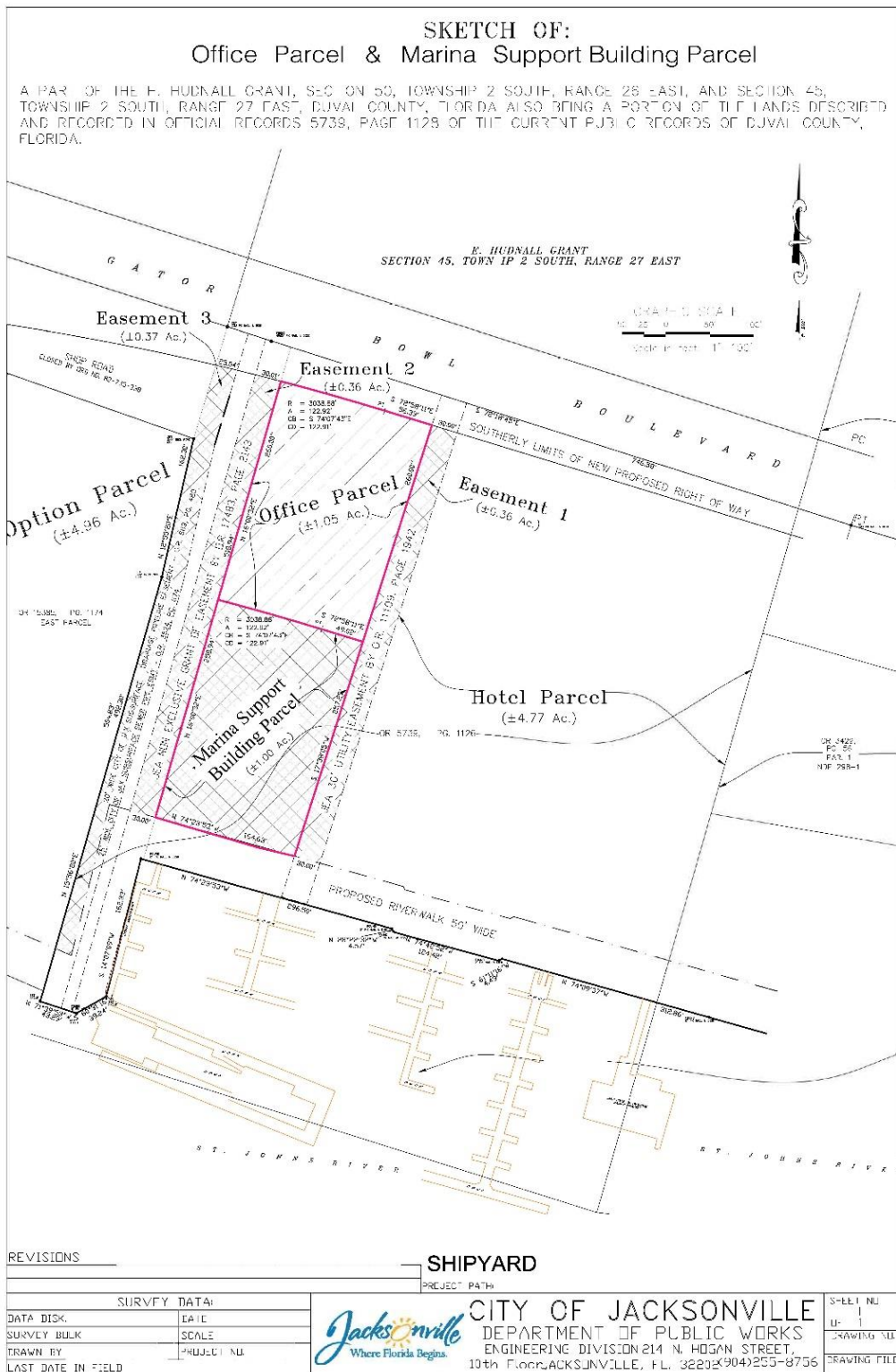


EXHIBIT C

Form of Tenant Estoppel Certificate

The undersigned is the Tenant under the Lease (defined below) between _____, a _____, as Landlord, and the undersigned as Tenant, for the Premises on the _____ floor(s) of the office building located at _____, Jacksonville, Florida, and commonly known as _____, and hereby certifies as follows:

1. The Lease consists of the original Lease Agreement dated as of _____, 20__ between Tenant and Landlord[’s predecessor-in-interest] and the following amendments or modifications thereto (if none, please state “none”): _____

The documents listed above are herein collectively referred to as the “**Lease**” and represent the entire agreement between the parties with respect to the Premises. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the Lease.

2. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Section 1 above.

3. The Term commenced on _____, 20__ and the Term expires, excluding any renewal options, on _____, 20__, and Tenant has no option to purchase all or any part of the Premises or the Property or, except as expressly set forth in the Lease, any option to terminate or cancel the Lease.

4. Tenant currently occupies the Premises described in the Lease and Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows (if none, please state “none”):

5. All monthly installments of Basic Rent and all other Rent has been paid when due through _____. The current monthly installment of Basic Rent is \$_____.

6. As of the date hereof, to Tenant’s actual knowledge, all conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder other than _____. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder other than _____.

7. As of the date hereof, to Tenant's actual knowledge, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease.

8. No rental has been paid more than 30 days in advance and no security deposit has been delivered to Landlord except as provided in the Lease.

9. If Tenant is a corporation, partnership or other business entity, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

10. As of the date hereof, to Tenant's actual knowledge, there are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.

11. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

12. All tenant improvement work to be performed by Landlord, if any, under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord, or to a prospective purchaser, and their respective successors and assigns, and acknowledges that Landlord, and/or such prospective purchaser will be relying upon the statements contained herein in acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of acquiring such property.

Executed as of _____, 20__.

TENANT:

By: _____

Name:

Title:

EXHIBIT D

RENEWAL OPTIONS

Provided no uncured Event of Default exists, and Tenant, its affiliate, a third-party marina manager, and/or any subtenant under a sublease, including, without limitation, the Restaurant Sublease, is occupying the entire Premises (exclusive of any portion of the Premises designed for restaurant or food service use, or that is open to the general public (e.g., public restrooms)) at the time of such election, Tenant may renew this Lease for (i) two (2) consecutive additional periods of five (5) years each in Tenant's sole discretion, followed by (ii) an additional two (2) consecutive additional periods of five (5) years each if mutually agreed upon by the City and Tenant (each an "Extension Term"). Tenant shall deliver written notice to Landlord on or before 180 days, but no more than 270 days before the expiration of the then current Term of Tenant's desire to extend this Lease upon the same terms and conditions as then set forth in the Lease. If the parties agree to extend the Lease as provided herein then Landlord and Tenant shall execute an amendment to this Lease extending the Term on the same terms provided in this Lease, except Landlord shall lease to Tenant the Premises in their then-current condition, and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements.

Tenant's rights under this Exhibit shall terminate if (1) this Lease or Tenant's right to possession of the Premises is terminated, or (2) Tenant fails to timely provide notice under this Exhibit, time being of the essence with respect to Tenant's notice of desire to renew.

The extension options herein are personal to the Tenant named in the Lease and any Tenant affiliate that is occupying the entire Premises (exclusive of any portion of Premises designed for restaurant or food service use) at the time of the election of the renewal option set forth herein, and may not be transferred or assigned except in connection with an assignment of the Lease in accordance with the provisions of the Lease.

EXHIBIT E

INSURANCE REQUIREMENTS

Without limiting its liability under this Lease, Tenant shall at all times during the term of this Lease procure, or cause its subtenants or licensee's to procure, as applicable, prior to commencement of work and maintain at their sole expense during the life of this Lease (and Tenant shall require its contractors, subcontractors, laborers, materialmen and suppliers to provide during any construction, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	\$500,000 Each Accident
	\$500,000 Disease Policy Limit
	\$500,000 Each Employee/Disease

This insurance shall cover the Tenant (and, to the extent they are not otherwise insured, its 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, Longshoreman and Harbor Workers Compensation and Jones, and any other applicable federal or state law.

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$2,000,000	Personal/Advertising Injury
	\$2,000,000	Each Occurrence
	\$ 500,000	Fire Damage
	\$ 5,000	Medical Expenses

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.

Automobile Liability	\$1,000,000 Each Occurrence – Combined Single
Limit	(Coverage for all automobiles, owned, hired or non-owned used in performance of the Services)

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).

Personal Property: Tenant shall insure its personal property at its sole cost and expense. Tenant may place its personal property within the leased space during the Lease Term from time to time at its discretion; however, all Tenant personal property that may be placed in, on or about the leased space during the Lease Term shall be thereon at Tenant's sole risk. Under no circumstances will the City be responsible for the Tenant's personal property.

Additional Insurance Provisions

- A. Certificates of Insurance. Tenant shall deliver the City Certificates of Insurance that shows the corresponding **City Contract or Bid Number** in the Description, **Additional Insureds, Waivers of Subrogation** and **Primary & Non-Contributory statement** as provided below. 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.
- B. Additional Insured: All insurance **except** Worker's Compensation, Professional Liability, AD&D and Crime (if required) 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, if products and completed operations is required, CG2037, Automobile Liability CA2048.
- C. 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.
- 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. Tenant's Insurance Primary. The insurance provided by the Tenant 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 Contract shall remain the sole and exclusive responsibility of the named insured Tenant. Under no circumstances will the City of Jacksonville and its members, officials, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured

retentions related to this Lease.

- G. Tenant's Insurance Additional Remedy. Compliance with the insurance requirements of this Contract shall not limit the liability of the Tenant 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 Lease or otherwise.
- H. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Tenant shall relieve Tenant of Tenant's full responsibility to provide insurance as required under this Lease.
- I. Notice. The Tenant 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 Tenant, 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 Tenant under this Contract 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 commercially reasonable 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, Tenant shall present this Contract and insurance requirements attachments **Exhibit E** to its Insurance Agent Affirming: 1) That the Agent has Personally reviewed the insurance requirements of the Contract 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 Tenant.

If Tenant fails to comply with the foregoing insurance requirements or to deliver to Landlord the certificates or evidence of coverage required herein, Landlord, in addition to any other remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to Landlord on demand the premium costs thereof, plus an administrative fee of 15% of such cost.

EXHIBIT F

INDEMNIFICATION

Except to the extent caused by the negligence or willful misconduct of Landlord or any Landlord Party, Tenant shall hold harmless, indemnify, and defend Landlord and Landlord's members, officers, officials, employees and agents (collectively the "Landlord Indemnified Parties") from and against, without limitation, any and all third party 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 Tenant and/or any Tenant Party that causes corporeal injury to persons (including death) or damage to property, whether arising out of or incidental to Tenant's and/or any Tenant Party's use of the Premises or Project or Tenant's performance of its obligations under this Lease; and

2. Environmental Liability, to the extent this Lease 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 Lease provided that Indemnifying Party shall have no duty to indemnify the Indemnified Parties for environmental conditions to the extent caused by the negligent or intentionally wrongful acts of persons other than Tenant or any Tenant Party; and

3. Intellectual Property Liability, to the extent this Lease contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services provided under this Lease (the "Service(s)"), any product generated by the Services, or any part of the Services as contemplated in this Lease, 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 Landlord Indemnified Parties, a license, authorizing the continued use of the Service or product. If the indemnifying party fails to secure such a license for the Landlord Indemnified Parties, then the indemnifying party shall 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 a Landlord Indemnified Party exercises any of its rights set forth in this Exhibit F, the Landlord Indemnified Party will (1) provide reasonable notice to Tenant of the applicable claim or liability, and (2) allow Tenant, 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 Lease or otherwise. Such terms of indemnity shall survive the expiration or termination of the Lease. Notwithstanding anything in this Agreement to the contrary, if the Indemnifying Party or its insurer provides a defense to the Indemnified Party hereunder, the Indemnified Party shall allow counsel selected by the Indemnifying Party or its insurer to

conduct the Indemnified Party's defense unless the Indemnified Party has reasonable cause to believe such counsel is not capable of providing independent advice and representation in which case the Indemnifying Party or its insurer, after due notice may select independent counsel at the sole cost and expense of the Indemnifying Party. The Indemnifying Party shall not be liable for any fees or costs incurred by Indemnified Party prior to receipt of a demand for defense and indemnity from the Indemnified Party.

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 O

Marina Support Building Parcel

An approximately 1.0-acre parcel of real property located on the southernmost portion of the property known as Kids Kampus and depicted as the “Marine Support Parcel” on the attached survey map. The Marina Support Building Parcel is bounded on the north by the southernmost boundary of the Office Building Parcel, bounded on the east by the JEA Easement recorded in OR Book 11109 at page 1942 and on the west by the JEA Easement recorded in OR Book 17483 at page 2143 and is a depth of approximately 257.29 feet on the easterly boundary and 259.94 feet on the westerly boundary as measured from the northerly boundary of the Parcel. The Marina Support Building Parcel will be retained by the City and operated as a park and public facility.

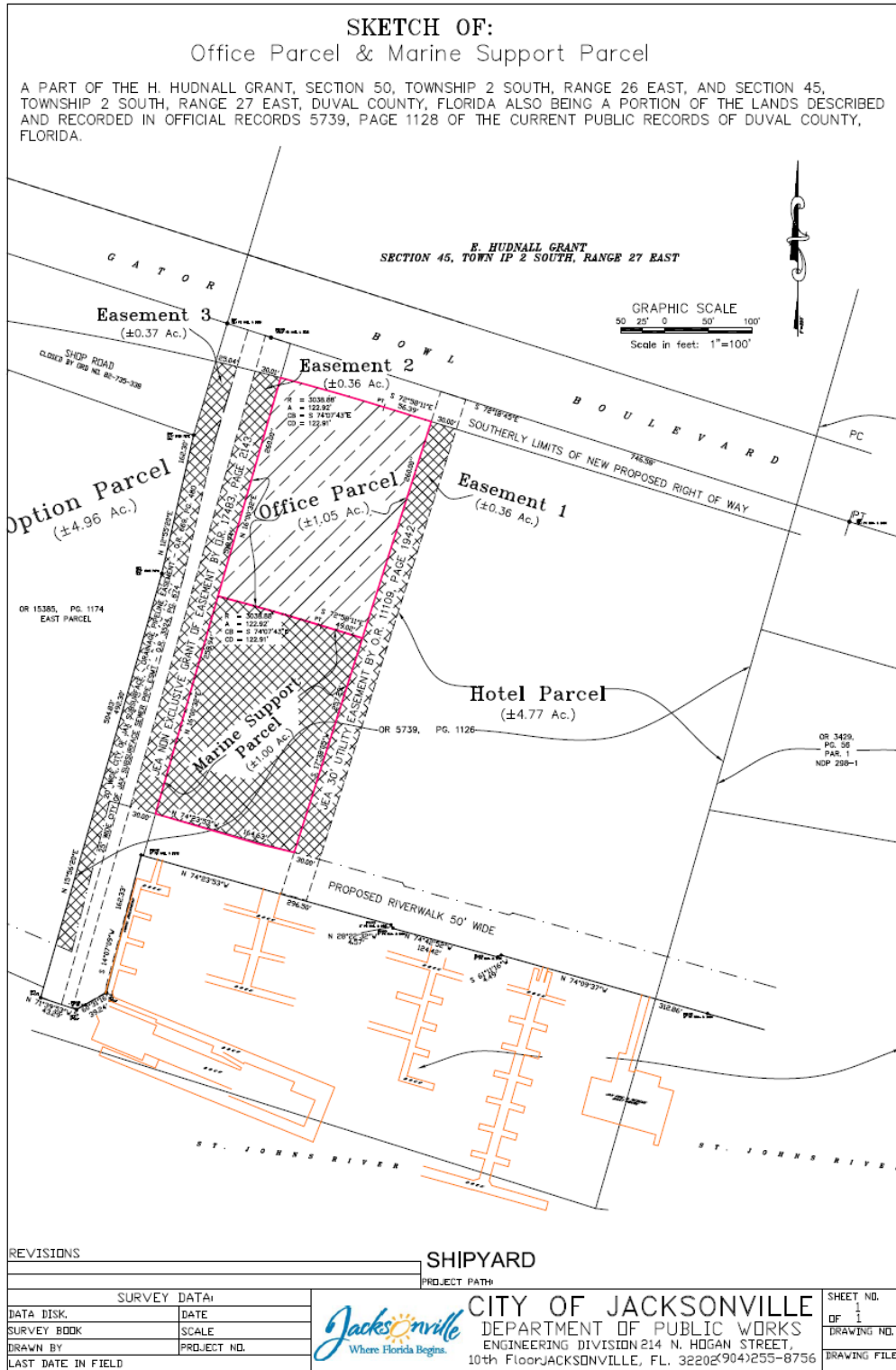


EXHIBIT P

Reserved

EXHIBIT Q

Office Building Parcel

An approximately 1.05-acre parcel of real property located on the northernmost portion of the property known as Kids Kampus and depicted as the “Office Parcel” on the attached survey map. The Office Building Parcel is bounded on the north by the new proposed right of way line of East Bay Street, bounded on the east by the JEA Easement recorded in OR Book 11109 at page 1942 and on the west by the JEA Easement recorded in OR Book 17483 at page 2143 and is a depth of 260.00 feet as measured from the northerly boundary of the Parcel. The Office Building Parcel will not include any interest in riparian rights or submerged lands and will be deed restricted as set forth in the Office Building Redevelopment Agreement, including, without limitation, to preclude industrial, manufacturing, or assembly uses on the Office Parcel.

EXHIBIT Q cont.

Office Building Parcel

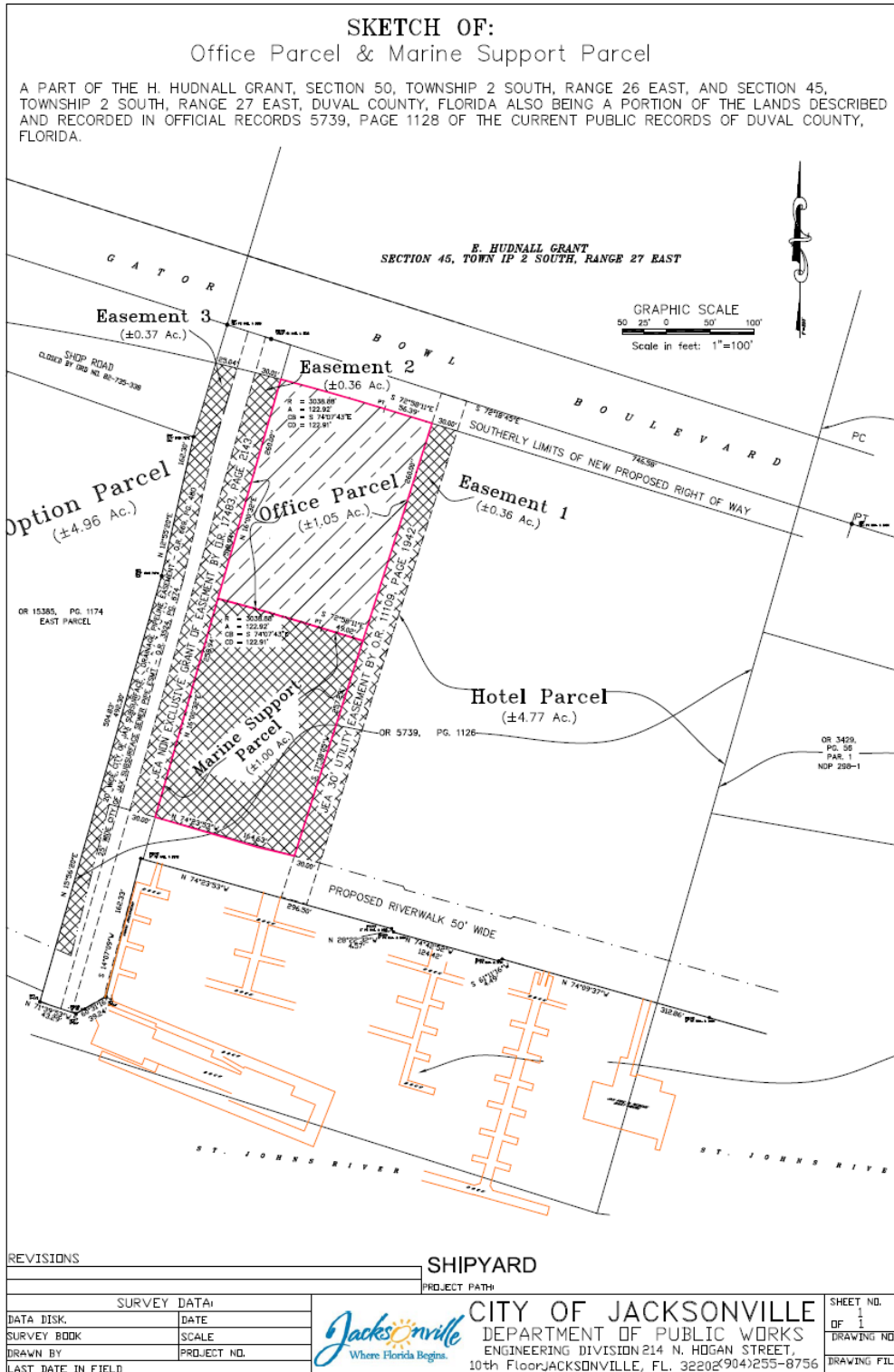


EXHIBIT R

Riverwalk Design Criteria

The Riverwalk Park Design Criteria, Riverwalk Planting Palette and Thread Plant List, and Jacksonville Riverwalk Wayfinding all as adopted by Ordinance 2019-196-E.

EXHIBIT S

Riverwalk Improvements

There currently exists a completed segment of the Riverwalk on the Riverwalk Parcel adjacent to the Hotel Parcel and Marina Support Building Parcel. Developer shall construct or cause to be constructed subject to COJ approval of the plans and construction budget therefor, a new more resilient Riverwalk. Any reconstruction of the Riverwalk on the Riverwalk Parcel shall be completed in accordance with plans approved by DIA and COJ and shall comply with the adopted Riverwalk Park Design Criteria and Riverwalk Planting Palette and Thread Plant List, and to the extent not in conflict with the foregoing, the 2018 Riverwalk Design Guidelines prepared by SWA. The Riverwalk Parcel may include the node/art/tower element contemplated by the SWA Riverwalk Design Guidelines. Public access shall be maintained in the entire fifty (50') foot wide strip retained by COJ.

Consistent with the above criteria, the Riverwalk multi-use hard surface shall be a minimum of 15 feet in width and all landscape materials, lighting, street furniture, wayfinding, etc. shall be outside the 15' required clear travel path. Standard lighting and street furniture, and plant material, consistent with the Riverwalk Park Design criteria and the Riverwalk Planting Palette and Thread plant list shall be maintained to ensure a sense of continuity along the Riverwalk.

EXHIBIT T

Reserved

EXHIBIT U

Riverwalk Parcel

That certain parcel lying within the current Kids Kampus and consisting of a strip 50 feet in width immediately adjacent to and including the bulkhead abutting the Marina and current leased submerged lands all as more particularly described on the survey map below.

[See one page following.]

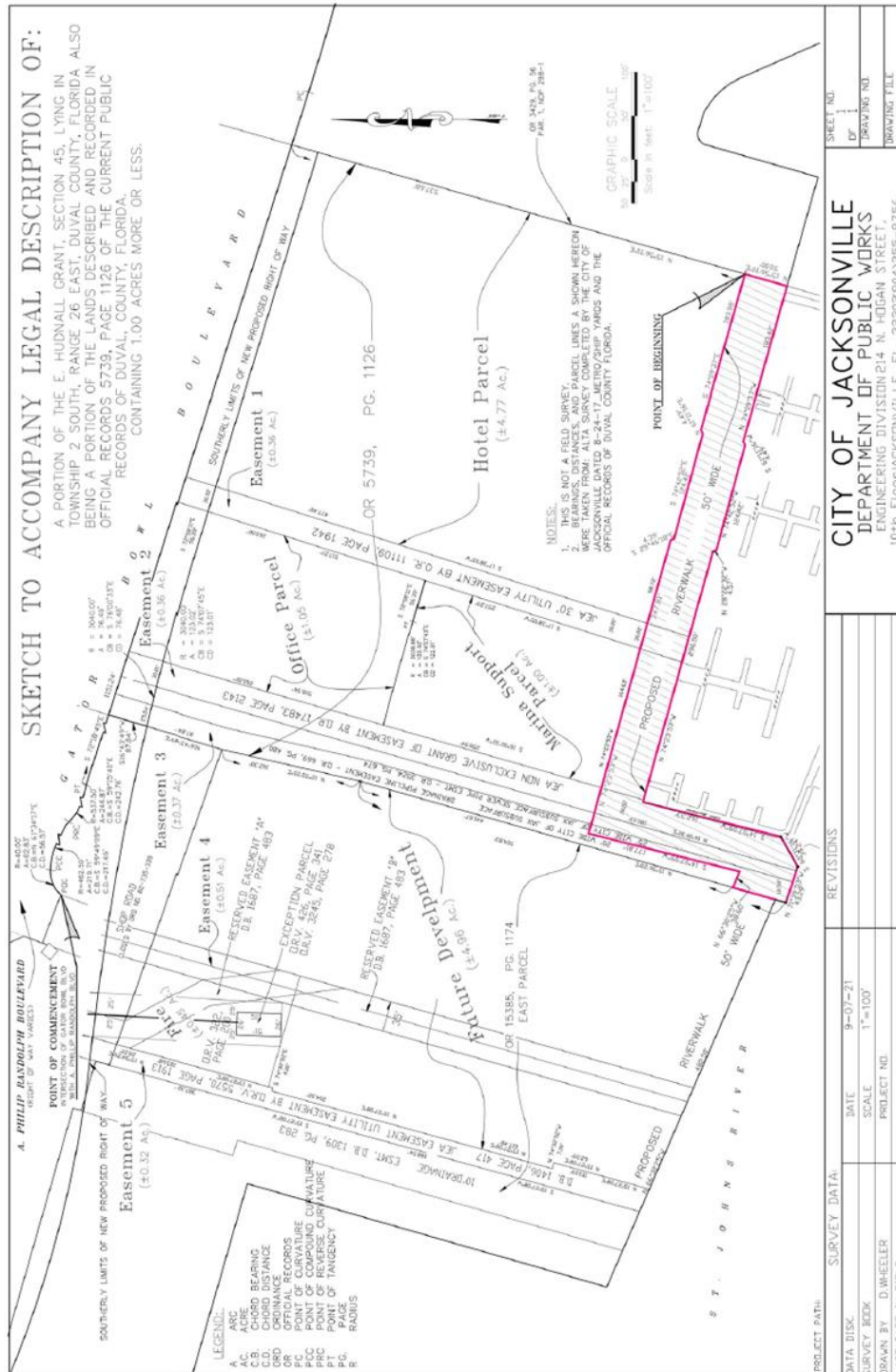


EXHIBIT V

Parking Map



EXHIBIT W

**Retained Parcel 1, Retained Parcel 2, Marina Parcel and Riverwalk Parcel Temporary
Construction Easement**

EXHIBIT W

Temporary Construction Easement (Retained Parcel 1, Retained Parcel 2, Riverwalk Parcel and Marina Parcel)

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

JOINT TEMPORARY CONSTRUCTION EASEMENT

THIS JOINT TEMPORARY CONSTRUCTION EASEMENT (this “Easement Agreement”) is made as of _____, 2022, 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 (the “Grantor”), to **SHIPYARDS OFFICE, LLC**, a Delaware limited liability company, (“Office Developer”), and **SHIPYARDS HOTEL, LLC**, a Delaware limited liability company, (“Hotel Developer” and together with Office Developer, jointly and severally, “Grantee”) whose address is 1 TIAA Bank Field Drive, Jacksonville, Florida 32202.

WHEREAS, Office Developer and Grantor are parties to that certain Redevelopment Agreement dated _____, 2022 (the “Office Agreement”) pursuant to which Office Developer has agreed to construct and install the Office Building Improvements (as defined in the Office Agreement), (the “Office Developer Improvements”);

WHEREAS, Hotel Developer and Grantor are parties to that certain Amended and Restated Redevelopment Agreement dated _____, 2022 (the “Hotel Agreement”, and together with the Office Agreement, the “Redevelopment Agreements”) pursuant to which Hotel Developer has agreed to construct and install the Hotel Improvements and certain other improvements pursuant to the Cost Disbursement Agreements (as such terms are defined in the Hotel Agreement), (collectively, the “Hotel Developer Improvements”);

WHEREAS, Office Developer and Hotel Developer are affiliates under common control and to reduce costs and increase efficiency are constructing the Office Developer Improvements and the Hotel Developer Improvements as one singular project (the “Project”).

NOW THEREFORE, 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 a joint, temporary, non-exclusive easement to Grantee, its successors and assigns, for construction of the Access Road and the improvements pursuant to the Cost Disbursement Agreements (as such terms are defined in the Hotel Agreement) and laydown space and ancillary uses related to the construction of the remainder of the Project, on, over, under, through, and across the following described land in Duval County, Florida:

See Exhibit A attached hereto and incorporated herein including descriptions of “Retained Parcel 1”, “Retained Parcel 2”, “Riverwalk Parcel” and “Marina Parcel” (collectively the “Easement Premises”).

Notwithstanding anything to the contrary in this Easement Agreement, Grantee shall only be permitted to use the Restricted Area (as hereinafter defined) to do work in connection with (i) the removal of the existing fire dock and (ii) integrating (a) the approved Bulkhead Improvements (as defined in the Hotel Agreement) into the existing bulkhead improvements in the Restricted Area and (b) dredging in the Restricted Area as required to achieve the dredging approved as part of the Marina Improvements (as defined in the Hotel Agreement), and no other work (including laydown space and ancillary uses) related to the construction of the Project shall be performed in the Restricted Area. The “Restricted Area” shall mean that portion of the Marina Parcel that lies eastward of the line that extends from the eastern boundary of the Hotel Parcel with the same bearing as such eastern boundary and continuing into the St. Johns River to the southern boundary of the Marina Parcel.

2. Term of Easement. This Easement Agreement shall automatically expire and terminate upon the first to occur of the following: (w) the date that any portion of the Hotel Improvements (as defined in the Hotel Agreement) is open to customers, (x) the abandonment of the Project by Grantee for a period of more than forty (40) consecutive business days, as may be extended for any Force Majeure Event (as such term is defined in the Hotel Agreement and/or the Office Agreement), (y) ninety (90) days after the Completion of the Hotel Improvements (as such terms are defined in the Hotel Agreement), and (z) June 30, 2026, subject to any extension authorized by the Redevelopment Agreements; provided however, that upon the written request of the Grantor following such termination, Hotel Developer and Office Developer shall each execute and deliver for recordation a termination of this Easement Agreement. Notwithstanding anything in this Easement Agreement to the contrary, Grantee shall have no rights under this Agreement with respect to the Riverwalk Parcel or Marina Parcel until the later of January 15, 2023 or the date that the Hotel Developer has obtained all necessary licenses, permits and governmental approvals to Commence construction of the Bulkhead Improvements (all as defined in the Hotel Agreement) and all rights under this Easement Agreement with respect to the Riverwalk Parcel and Marina Parcel shall terminate no later than thirty-six (36) months after the Marina Closure Date (as defined in the Hotel Agreement).

3. Right to Closure. During the term of this Easement Agreement, in addition to the easement rights set forth herein but subject to the limitations set forth in Section 2 above, (x)

Grantee shall have the right to close Retained Parcel 1 to the public; (y) Grantee shall have the right to close the Marina Parcel and the Riverwalk Parcel to the public only during the thirty-six (36) month period beginning on the Marina Closure Date (as defined in the Hotel Agreement), and (z) Grantee shall have the right to close Retained Parcel 2 and the access road to the Marina (as defined in the Hotel Agreement) located thereon to the public only during the following periods: (1) any period expressly approved in writing by the Director of Parks, Recreation and Community Services or the Chief Executive Officer of the Downtown Investment Authority, (2) on weekdays prior to the Marina Closure Date (as defined in the Hotel Agreement), and (3) the thirty-six (36) month period beginning on the Marina Closure Date (as defined in the Hotel Agreement).

4. Joint Use; Cooperation. Hotel Developer and Office Developer each acknowledge that all rights hereunder are granted jointly and are to be used in coordination with one another and such coordination is solely the responsibility of Hotel Developer and Office Developer, Grantor having no liability for the same. As such, Hotel Developer and Office Developer shall, and shall cause each of their contractors, employees, representatives, directors, officers, invitees and agents (collectively, and together with Hotel Developer and Office Developer, the “Grantee Parties”), to fully cooperate and coordinate, and not cause any interference, with each other with respect to the access to and use of the Easement Premises and the construction and installation of the Project and each of its components. Notwithstanding the foregoing, once the construction of the Hotel Improvements (as defined in the Hotel Agreement) have commenced, the rights of the Office Developer under this Easement Agreement shall be subject and subordinate to the rights of the Hotel Developer. Grantor shall have the right, but not the obligation, to enforce the foregoing and to institute suit to enjoin any violation thereof.

5. Indemnification. Hotel Developer 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 Hotel Developer 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 or intentional misconduct of the Indemnified Parties. The provisions of this paragraph shall survive the expiration or earlier termination of this Easement Agreement.

Office Developer 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 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 Office Developer 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 or intentional misconduct of the Indemnified Parties. The provisions of this paragraph shall survive the expiration or earlier termination of this Easement Agreement.

Nothing contained in this Section 4 shall be construed as a waiver, expansion, or alteration of Grantor's sovereign immunity beyond the limitations stated in Section 768.28, Florida Statutes.

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

7. 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.

8. Use; Compliance with Laws. Subject to the provisions hereof, Grantee shall have the right to use the Easement Premises for the purpose stated in Section 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.

9. 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.

10. 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

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

To Grantee: Shipyards Office, LLC
Shipyards Hotel, LLC
1 TIAA Bank Field Drive
Jacksonville, Florida 32202
Attn: Megha Parekh

With a copy to: Driver, McAfee, Hawthorne & Diebenow, PLLC
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

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

Signed and Sealed in our presence witnesses:

Name: _____

Name: _____

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2022, 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: _____

Signed and Sealed in our presence witnesses:

SHIPYARDS OFFICE, LLC, a Delaware
limited liability company

Name: _____

By: _____

Name: _____

Its: _____

Name: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2022, by _____, as
_____ of **SHIPYARDS OFFICE, LLC**, a Delaware 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]

Signed and Sealed in our presence witnesses:

SHIPYARDS HOTEL, LLC, a Delaware
limited liability company

Name: _____

By: _____

Name: _____

Its: _____

Name: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2022, by _____, as
_____ of **SHIPYARDS HOTEL, LLC**, a Delaware 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 Joint Temporary Construction Easement

Retained Parcel 1, Retained Parcel 2, Riverwalk Parcel and Marina Parcel as depicted below.

Legal Description to be added after survey.

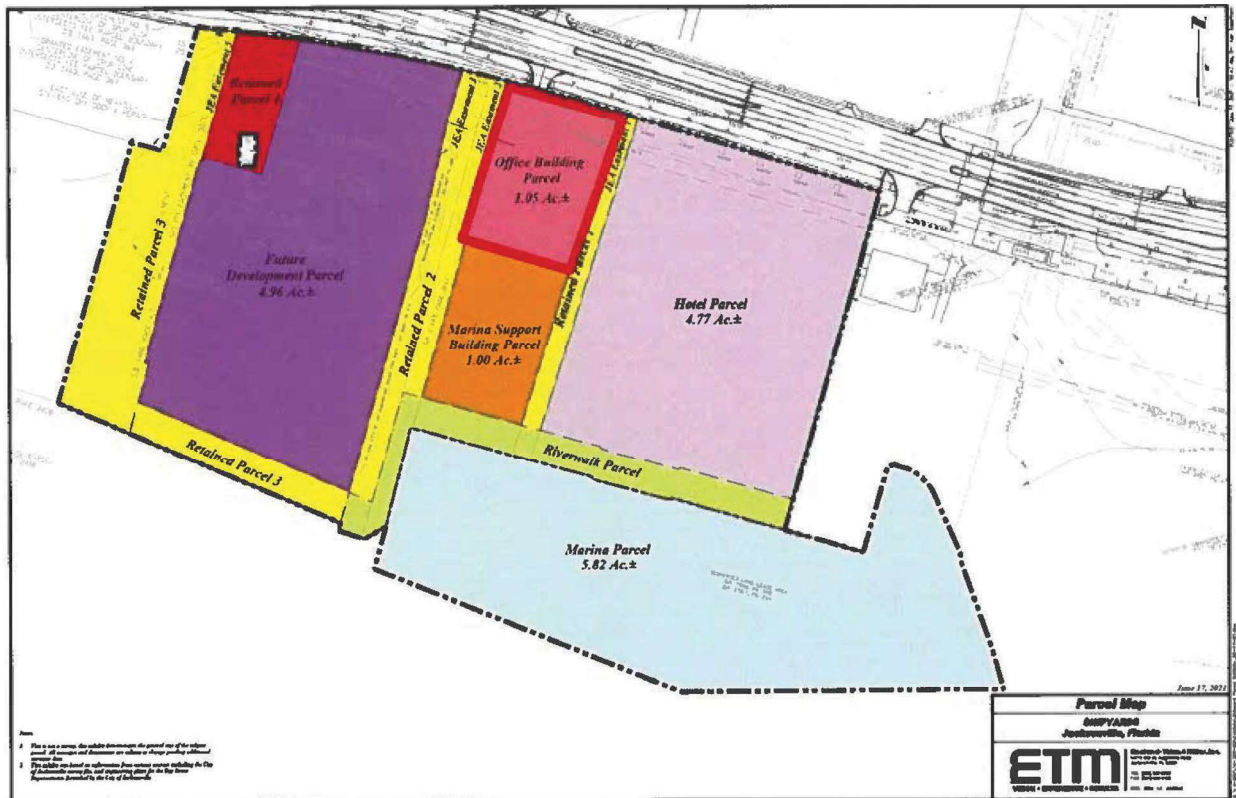


EXHIBIT B to Joint Temporary Construction Easement

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
Worker's Compensation Employer's Liability	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.

Commercial General Liability	\$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

Railroad Protective Liability

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 Grantor, and their respective members, officials, officers, employee and agents.

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 Grantor, 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 Grantor or any of Grantor's 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 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 Contractors, Subcontractors, employees or agents to the City or others. Any remedy provided to Grantor or Grantor'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 Grantor 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 Grantor Certificates of Insurance that show 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 Grantor 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, Grantor may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that Grantor 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 X

**Future Development Parcel, Retained Parcel 3 and Retained Parcel 4 Temporary
Construction Easement**

Exhibit X
Temporary Construction Easement
(Future Development Parcel, Retained Parcel 3 and Retained Parcel 4)

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

JOINT TEMPORARY CONSTRUCTION EASEMENT

THIS JOINT TEMPORARY CONSTRUCTION EASEMENT (this “Easement Agreement”) is made as of _____, 2022, 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 (the “Grantor”), to **SHIPYARDS OFFICE, LLC**, a Delaware limited liability company, (“Office Developer”), and **SHIPYARDS HOTEL, LLC**, a Delaware limited liability company, (“Hotel Developer” and together with Office Developer, jointly and severally, “Grantee”) whose address is 1 TIAA Bank Field Drive, Jacksonville, Florida 32202.

WHEREAS, Office Developer and Grantor are parties to that certain Redevelopment Agreement dated _____, 2022 (the “Office Agreement”) pursuant to which Office Developer has agreed to construct and install the Office Building Improvements (as defined in the Office Agreement), (the “Office Developer Improvements”);

WHEREAS, Hotel Developer and Grantor are parties to that certain Amended and Restated Development Agreement dated _____, 2022 (the “Hotel Agreement”, and together with the Office Agreement, the “Redevelopment Agreements”) pursuant to which Hotel Developer has agreed to construct and install the Hotel Improvements and certain other improvements pursuant to the Cost Disbursement Agreements (as such terms are defined in the Hotel Agreement), (collectively, the “Hotel Developer Improvements”);

WHEREAS, Office Developer and Hotel Developer are affiliates under common control and to reduce costs and increase efficiency are constructing the Office Developer Improvements and the Hotel Developer Improvements as one singular project (the “Project”).

NOW THEREFORE, 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 a joint, temporary, non-exclusive easement to Grantee, its successors and assigns, for laydown space and ancillary uses related to the construction of the 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 first to occur of the following: (w) the date that any portion of the Hotel Improvements (as defined in the Hotel Agreement) is open to customers, (x) the abandonment of the Project by Grantee for a period of more than forty (40) consecutive business days, as may be extended for any Force Majeure Event (as such term is defined in the Hotel Agreement and/or the Office Agreement), (y) ninety (90) days after the Completion of the Hotel Improvements (as such terms are defined in the Hotel Agreement), and (z) June 30, 2026, subject to any extension authorized by the Redevelopment Agreements; provided however, that upon the written request of the Grantor following such termination, Hotel Developer and Office Developer shall each execute and deliver for recordation a termination of this Easement Agreement.

3. Joint Use; Cooperation. Hotel Developer and Office Developer each acknowledge that all rights hereunder are granted jointly and are to be used in coordination with one another and such coordination is solely the responsibility of Hotel Developer and Office Developer, Grantor having no liability for the same. As such, Hotel Developer and Office Developer shall, and shall cause each of their contractors, employees, representatives, directors, officers, invitees and agents (collectively, and together with Hotel Developer and Office Developer, the “Grantee Parties”), to fully cooperate and coordinate, and not cause any interference, with each other with respect to the access to and use of the Easement Premises and the construction and installation of the Project and each of its components. Notwithstanding the foregoing, once the construction of the Hotel Improvements (as defined in the Hotel Agreement) have commenced, the rights of the Office Developer under this Easement Agreement shall be subject and subordinate to the rights of the Hotel Developer. Grantor shall have the right, but not the obligation, to enforce the foregoing and to institute suit to enjoin any violation thereof.

4. Indemnification. Hotel Developer 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 Hotel Developer 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 or intentional misconduct of the Indemnified Parties. The provisions of this paragraph shall survive the expiration or earlier termination of this Easement Agreement.

Office Developer 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 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 Office Developer 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 or intentional misconduct of the Indemnified Parties. The provisions of this paragraph shall survive the expiration or earlier termination of this Easement Agreement.

Nothing contained in this Section 4 shall be construed as a waiver, expansion, or alteration of Grantor's sovereign immunity beyond the limitations stated in Section 768.28, Florida Statutes.

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

6. 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.

7. Use; Compliance with Laws. Subject to the provisions hereof, Grantee shall have the right to use the Easement Premises for the purpose stated in Section 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.

8. 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.

9. 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

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

To Grantee: Shipyards Office, LLC
Shipyards Hotel, LLC
1 TIAA Bank Field Drive
Jacksonville, Florida 32202
Attn: Megha Parekh

With a copy to: Driver, McAfee, Hawthorne & Diebenow, PLLC
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

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

Signed and Sealed in our presence witnesses:

Name: _____

Name: _____

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2022, 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: _____

Signed and Sealed in our presence witnesses:

SHIPYARDS OFFICE, LLC, a Delaware
limited liability company

Name: _____

By: _____

Name: _____

Its: _____

Name: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2022, by _____, as
_____ of **SHIPYARDS OFFICE, LLC**, a Delaware 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]

Signed and Sealed in our presence witnesses:

SHIPYARDS HOTEL, LLC, a Delaware
limited liability company

Name: _____

By: _____

Name: _____

Its: _____

Name: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2022, by _____, as
_____ of **SHIPYARDS HOTEL, LLC**, a Delaware 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 Joint Temporary Construction Easement

Future Development Parcel, Retained Parcel 3 and Retained Parcel 4 as depicted below.

Legal Description to be added after survey.



EXHIBIT B to Joint 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
Worker's Compensation Employer's Liability	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.

Commercial General Liability	\$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

Railroad Protective Liability

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 Grantor, and their respective members, officials, officers, employee and agents.

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 Grantor, 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 Grantor or any of Grantor's 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 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 Contractors, Subcontractors, employees or agents to the City or others. Any remedy provided to Grantor or Grantor'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 Grantor 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 Grantor Certificates of Insurance that show 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 Grantor 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, Grantor may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that Grantor 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 Y

Temporary Construction Easement
(Marina Support Building Parcel)

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

JOINT TEMPORARY CONSTRUCTION EASEMENT

THIS JOINT TEMPORARY CONSTRUCTION EASEMENT (this “Easement Agreement”) is made as of _____, 2022, 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 (the “Grantor”), to **SHIPYARDS OFFICE, LLC**, a Delaware limited liability company, (“Office Developer”), and **SHIPYARDS HOTEL, LLC**, a Delaware limited liability company, (“Hotel Developer” and together with Office Developer, jointly and severally, “Grantee”) whose address is 1 TIAA Bank Field Drive, Jacksonville, Florida 32202.

WHEREAS, Office Developer and Grantor are parties to that certain Redevelopment Agreement dated _____, 2022 (the “Office Agreement”) pursuant to which Office Developer has agreed to construct and install the Office Building Improvements (as defined in the Office Agreement), (the “Office Developer Improvements”);

WHEREAS, Hotel Developer and Grantor are parties to that certain Amended and Restated Development Agreement dated _____, 2022 (the “Hotel Agreement”, and together with the Office Agreement, the “Redevelopment Agreements”) pursuant to which Hotel Developer has agreed to construct and install the Hotel Improvements and certain other improvements pursuant to the Cost Disbursement Agreements (as such terms are defined in the Hotel Agreement), (collectively, the “Hotel Developer Improvements”);

WHEREAS, Office Developer and Hotel Developer are affiliates under common control and to reduce costs and increase efficiency are constructing the Office Developer Improvements and the Hotel Developer Improvements as one singular project (the “Project”).

NOW THEREFORE, 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 a joint, temporary, non-exclusive easement to Grantee, its successors and assigns, for construction of the Marina Support Building Improvements (as defined in the Hotel Agreement) and for laydown space and ancillary uses related to the construction of the remainder of the 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 first to occur of the following: (w) the date that any portion of the Hotel Improvements (as defined in the Hotel Agreement) is open to customers, (x) the abandonment of the Project by Grantee for a period of more than forty (40) consecutive business days, as may be extended for any Force Majeure Event (as such term is defined in the Hotel Agreement and/or the Office Agreement), (y) the date that the Marina and the Marina Support Building (as such terms are defined in the Hotel Agreement) are required to be open pursuant to the Hotel Agreement, and (z) June 30, 2026, subject to any extension authorized by the Redevelopment Agreements; provided however, that upon the written request of the Grantor following such termination, Hotel Developer and Office Developer shall each execute and deliver for recordation a termination of this Easement Agreement.

3. Joint Use; Cooperation. Hotel Developer and Office Developer each acknowledge that all rights hereunder are granted jointly and are to be used in coordination with one another and such coordination is solely the responsibility of Hotel Developer and Office Developer, Grantor having no liability for the same. As such, Hotel Developer and Office Developer shall, and shall cause each of their contractors, employees, representatives, directors, officers, invitees and agents (collectively, and together with Hotel Developer and Office Developer, the “Grantee Parties”), to fully cooperate and coordinate, and not cause any interference, with each other with respect to the access to and use of the Easement Premises and the construction and installation of the Project and each of its components. Notwithstanding the foregoing, once the construction of the Marina Support Building Improvements (as defined in the Hotel Agreement) has commenced, the rights of the Office Developer under this Easement Agreement shall be subject and subordinate to the rights of the Hotel Developer. Grantor shall have the right, but not the obligation, to enforce the foregoing and to institute suit to enjoin any violation thereof.

4. Indemnification. Hotel Developer 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 Hotel Developer 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 or intentional misconduct of the Indemnified Parties. The provisions of this paragraph shall survive expiration or earlier termination of this Easement Agreement.

Office Developer 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 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 Office Developer 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 or intentional misconduct of the Indemnified Parties. The provisions of this paragraph shall survive the expiration or earlier termination of this Easement Agreement.

Nothing contained in this Section 4 shall be construed as a waiver, expansion, or alteration of Grantor's sovereign immunity beyond the limitations stated in Section 768.28, Florida Statutes.

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

6. 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.

7. Use; Compliance with Laws. Subject to the provisions hereof, Grantee shall have the right to use the Easement Premises for the purpose stated in Section 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.

8. 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.

9. 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

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

To Grantee: Shipyards Office, LLC
Shipyards Hotel, LLC
1 TIAA Bank Field Drive
Jacksonville, Florida 32202
Attn: Megha Parekh

With a copy to: Driver, McAfee, Hawthorne & Diebenow, PLLC
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

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

Signed and Sealed in our presence witnesses:

Name: _____

Name: _____

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2022, 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: _____

Signed and Sealed in our presence witnesses:

SHIPYARDS OFFICE, LLC, a Delaware
limited liability company

Name: _____

By: _____

Name: _____

Its: _____

Name: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2022, by _____, as
_____ of **SHIPYARDS OFFICE, LLC**, a Delaware 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]

Signed and Sealed in our presence witnesses:

SHIPYARDS HOTEL, LLC, a Delaware
limited liability company

Name: _____

By: _____

Name: _____

Its: _____

Name: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2022, by _____, as
_____ of **SHIPYARDS HOTEL, LLC**, a Delaware 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 Joint Temporary Construction Easement

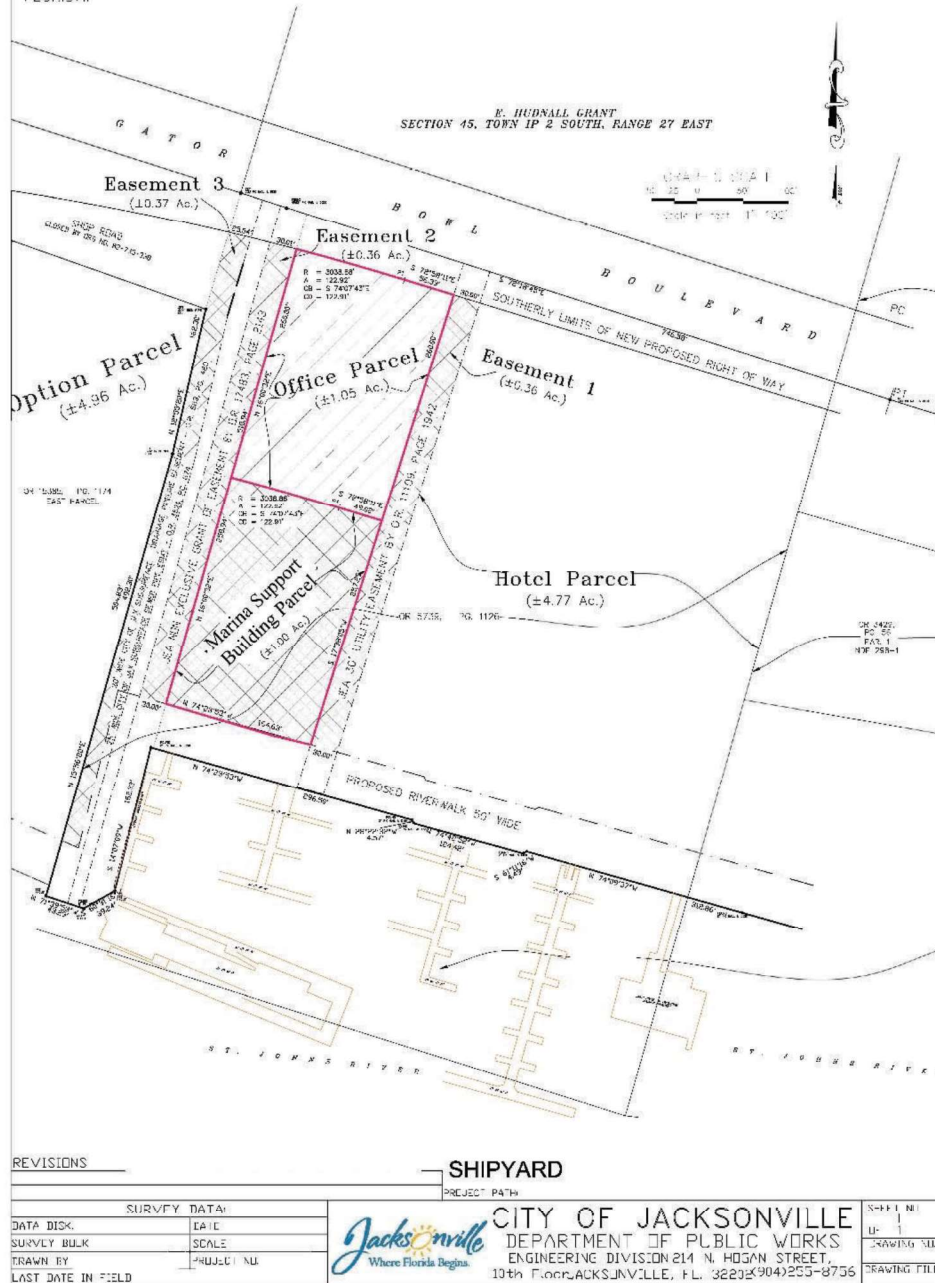
Legal Description to be added after survey.

An approximately 1.0-acre parcel of real property located on the southernmost portion of the property known as Kids Kampus and depicted as the “Marine Support Building Parcel” on the attached survey map. The Marina Support Building Parcel is bounded on the north by the southernmost boundary of the Office Building Parcel, bounded on the east by the JEA Easement recorded in OR Book 11109 at page 1942 and on the west by the JEA Easement recorded in OR Book 17483 at page 2143 and is a depth of approximately 257.29 feet on the easterly boundary and 259.94 feet on the westerly boundary as measured from the northerly boundary of the Parcel. The Marina Support Building Parcel will be retained by the City and operated as a park and public facility.

[See sketch following page.]

SKETCH OF: Office Parcel & Marina Support Building Parcel

A PART OF THE E. HUDNALL GRANT, SECTION 45, TOWNSHIP 2 SOUTH, RANGE 28 EAST, AND SECTION 45, TOWNSHIP 2 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA ALSO BEING A PORTION OF THE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS 5738, PAGE 1128 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.



REVISIONS

SHIPYARD

PROJECT PATH

SURVEY DATA	
DATA DISK	DATE
SURVEY BULK	SCALE
DRAWN BY	PROJECT NO.
LAST DATE IN FIELD	



CITY OF JACKSONVILLE
DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION 214 N. HOGAN STREET,
10th Floor JACKSONVILLE, FL. 32202-9042 904-253-8736

SHEET NO.	1
DATE	1
DRAWING NO.	
DRAWING FILE	

EXHIBIT B to Joint 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
Worker's Compensation Employer's Liability	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.

Commercial General Liability	\$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

Railroad Protective Liability

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 Grantor, and their respective members, officials, officers, employee and agents.

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 Grantor, 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 Grantor or any of Grantor's 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 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 Contractors, Subcontractors, employees or agents to the City or others. Any remedy provided to Grantor or Grantor'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 Grantor 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 Grantor Certificates of Insurance that show 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 Grantor 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, Grantor may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that Grantor 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 Z

Disbursement Request Form

Page 1 of 2

CITY OF JACKSONVILLE, FLORIDA
APPLICATION FOR PAYMENT NO. _____

PROJECT _____ **BID NO.** _____ **CONTRACT NO.** _____

For Work accomplished through the date of _____.

A. Contract and Change Orders

1. Contract Amount..... \$ _____
2. Executed Change Orders + \$ _____
3. Total Contract (1) + (2)..... _____
\$ _____

B. Work Accomplished

4. Work performed on Contract Amount (1)..... \$ _____
5. Work performed on Change Orders (2)..... + \$ _____
6. Materials stored + \$ _____
7. Total Completed & Stored (4) + (5) + (6) \$ _____
8. Retainage 10% of Item (7), - \$ _____
9. Less Previous
Payments Made (or) Invoiced - \$ _____
10. Payment Amount Due this Application (7) — (8) — (10) \$ _____

(*) This application for payment shall be supported with the Contractor's pay request and supporting documentation.

[Developer certification and signatures on following page]

Disbursement Request Form

(Page 2 of 2)

DEVELOPER'S CERTIFICATION

The undersigned DEVELOPER certifies that: (1) all items and amounts shown above are correct; (2) all Work performed and materials supplied fully comply with the terms and conditions of the Contract Documents; (3) all previous progress payments received from the CITY on account of Work done under the Contract referred to above have been applied to discharge in full all obligations of DEVELOPER incurred in connection with Work covered by prior Applications for Payment; (4) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to CITY at time of payment free and clear of all liens, claims, security interests and encumbrances; and (5) if applicable, the DEVELOPER has complied with all provisions of Part 6 of the Purchasing Code including the payment of a pro-rata share to Jacksonville Small Emerging Business (JSEB) of all payments previously received by the DEVELOPER.

Dated _____, 20__

Developer Signature

By: _____

Name Printed: _____

Notary Public

Date

Approvals

Construction Inspector

Project Manager

City Engineer

EXHIBIT AA

JSEB Reporting Form

Business:

Goal: \$

Contact: _____

Date: _____

Date Contract Awarded	Contractor Name	Ethnicity (1)	Scope of Work (2)	Contract Amount	Amount Paid to Date	% of Work Completed to Date
		(1) AA – African American	(2) Examples: Masonry			
		HANA – Hispanic, Asian, Native American	Painting			
		WBE – Women	Site Clearing			
		C - Caucasian	Electrical			

EXHIBIT BB

Annual Survey



Send completed form to:

Downtown Investment Authority
Attn: Contract and Regulatory Compliance
117 West Duval Street, Suite 310
Jacksonville, Florida 32202

Fax: (904) 255-5309
Email: Jcrescimbeni@coj.net

Year 1 Annual Survey 20__

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, 202__:

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

EXHIBIT CC

Indemnification

1. The Developer shall hold harmless, indemnify, and defend the City and the DIA, and their respective 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:

(a) General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties’ performance of the Agreement, operations, services or work performed hereunder; and

(b) 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 this Agreement; and

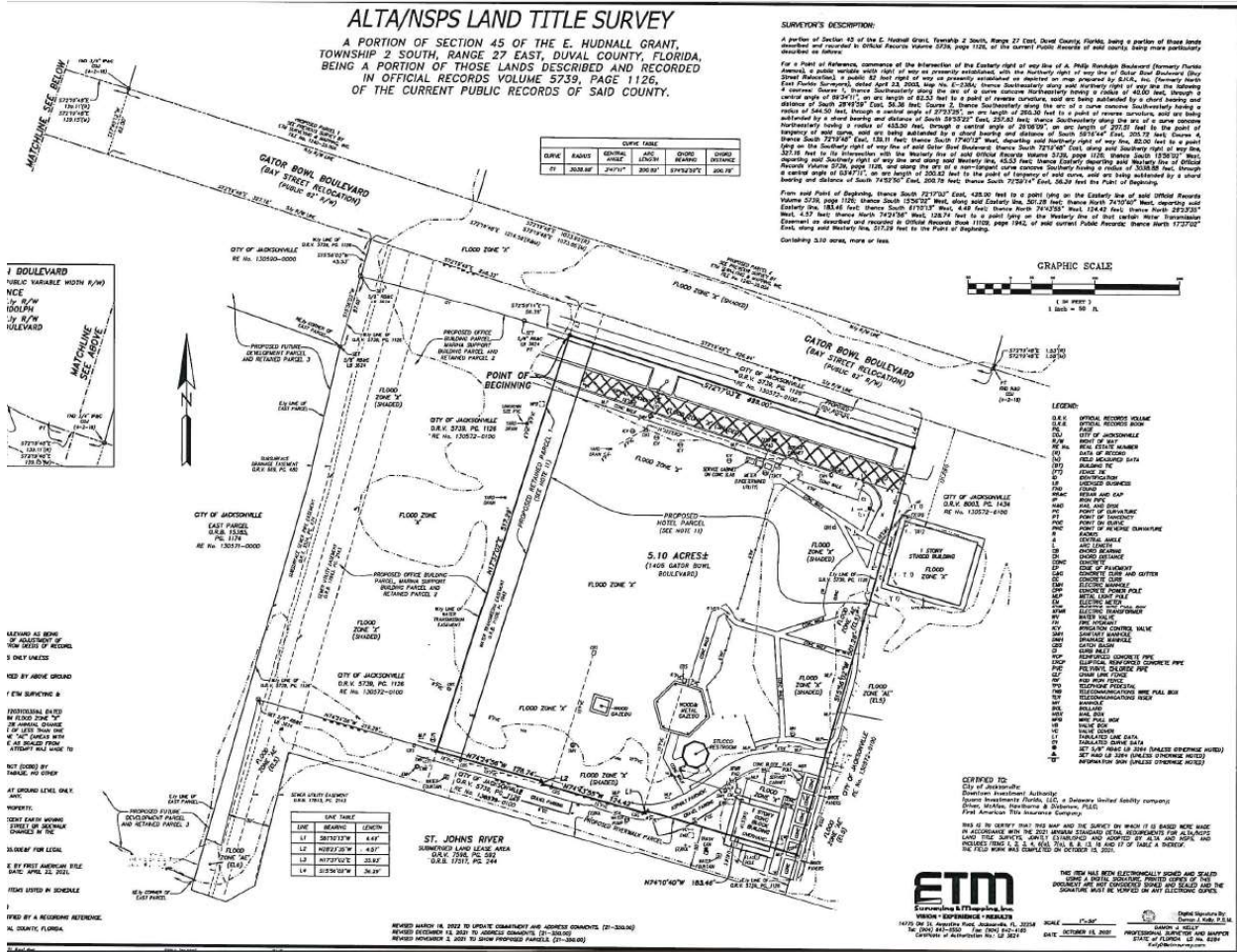
(c) Intellectual Property Liability, to the extent this Agreement contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Project, any product generated by the Project, or any part of the Project as contemplated in this Agreement, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Project, or any product generated by the Project, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall 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.

(d) If an Indemnifying Party exercises its rights under this Agreement, the Indemnifying Party 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 the Agreement or otherwise. Such terms of indemnity shall survive the expiration or termination of the Agreement.

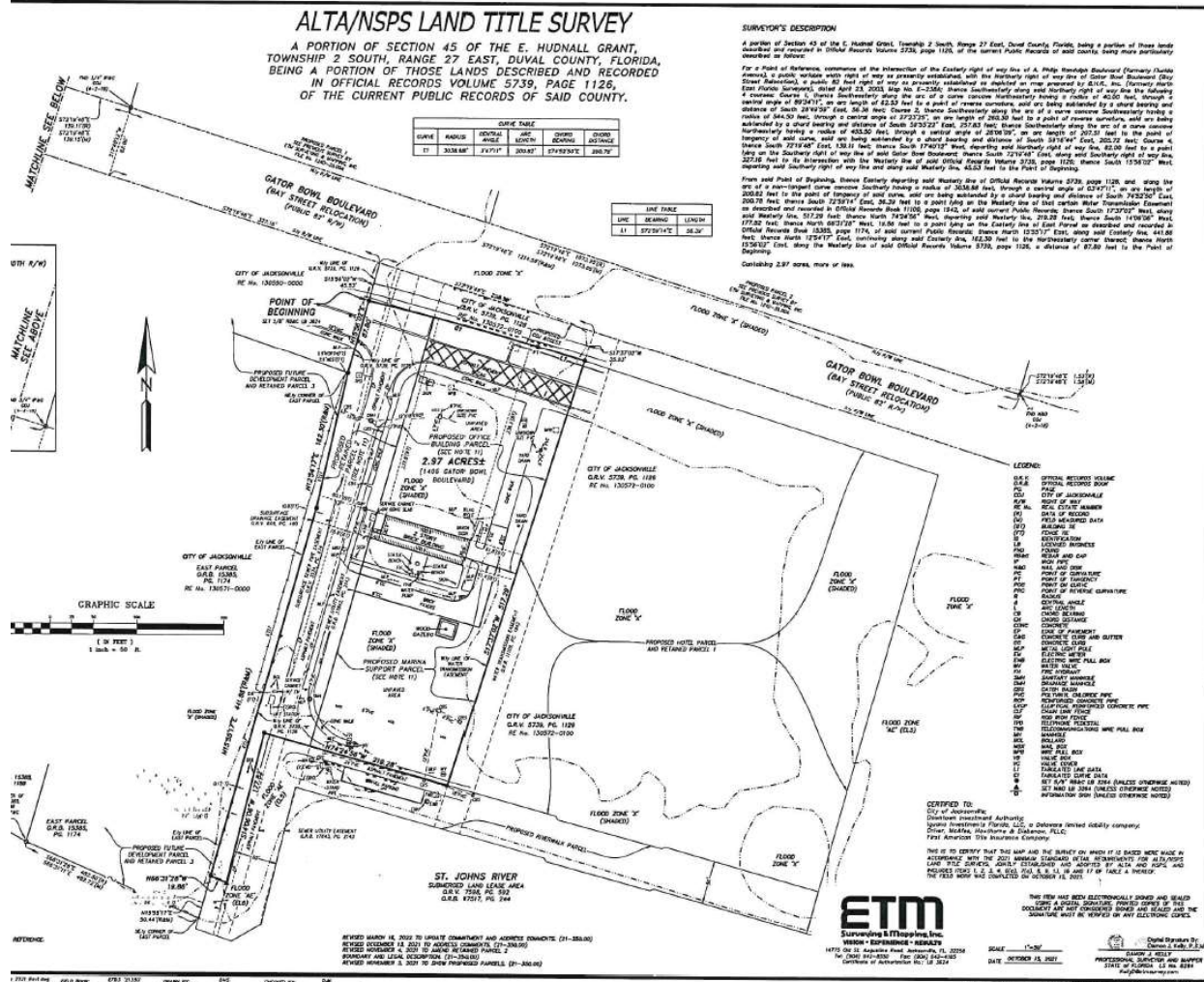
2. In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

This indemnification shall survive the expiration or termination (for any reason) of this Agreement and remain in full force and effect for six (6) years. 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 Exhibit CC shall include all officers, board members, City Council members, employees, representatives, agents, successors and assigns of the City and the DIA, as applicable.

Service Road



Service Road



**AMENDED AND RESTATED PUBLIC INFRASTRUCTURE CAPITAL
IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT
RIVERWALK IMPROVEMENTS**

THIS AMENDED AND RESTATED PUBLIC INFRASTRUCTURE CAPITAL IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2025 (the “Effective Date”) between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (“City”), and **SHIPYARDS MARINA FLORIDA, LLC**, a Delaware limited liability company, by way of assignment from Shipyards Hotel Jacksonville, LLC, a Delaware limited liability company, f/k/a Shipyards Hotel, LLC, a Delaware limited liability company (“Developer”). Capitalized terms used herein and not otherwise defined shall have the meaning as set forth in the RDA, defined below.

**ARTICLE 1
PRELIMINARY STATEMENTS**

1.1 Background; the Improvements.

(1) City and Developer have previously entered into that certain Amended and Restated Redevelopment Agreement dated March 30, 2023 (the “RDA”), pursuant to which City will provide funding for Developer to construct on behalf of the City, among other things, certain Riverwalk Improvements (as defined in the RDA) as more specifically set forth on **Exhibit A** attached hereto (the “Improvements”) located generally on the Northbank of the St. Johns River in Jacksonville, Florida near Metropolitan Park, as more particularly described in the RDA. A description of the City-owned real property on which the Improvements will be constructed is described in **Exhibit B** attached hereto (the “Riverwalk Parcel”).

(2) City and Developer have also entered into that certain Public Infrastructure Capital Improvements Costs Disbursement Agreement dated March 31, 2023 for the construction of certain Riverwalk Improvements on the Northbank of the St. Johns River (the “Riverwalk CDA”). This Agreement amends and restates the Riverwalk CDA, and is effective as of the Effective Date hereof.

(3) The City has determined that the design, engineering, permitting, construction and inspection of the Improvements can most efficiently and cost effectively be completed by Developer simultaneously with the Project (as defined in the RDA). Developer is willing to design, engineer, permit, construct and inspect the Improvements in accordance with applicable Florida law for public projects, including but not limited to pursuant to procedures consistent with Sections 287.055 and 255.20, Florida Statutes.

(4) The City has requested, and Developer has agreed, that Developer will design, engineer, permit, construct and inspect the Improvements as specifically described and depicted on **Exhibit A** attached hereto and incorporated herein by this reference. The Plans and Specifications for the Improvements shall be incorporated into **Exhibit A** as set forth below. Prior

to the construction of the Improvements, the City shall have received and approved (such approval not to be unreasonably withheld) the Plans and Specifications, and Budget (as defined herein) prepared by the Developer's design team for the Improvements. The Plans and Specifications shall be complete working drawings and specifications for construction of the Improvements, and in connection with the development thereof, the Developer shall follow the applicable permitting, review and approval process as set forth in the City's Ordinance Code (the "Code"). In addition, the Plans and Specifications shall be subject to the review and approval of the CEO of the Downtown Investment Authority, the Director of the City's Department of Parks, Recreation and Community Services, and the Director of the City's Department of Public Works in each of their reasonable discretion.

(i) The City has agreed to fund the design, engineering, permitting, construction and inspection of the Improvements in a maximum amount equal to the lesser of: (i) the actual Verified Direct Costs for the construction of the Improvements; or (ii) FOUR MILLION ONE HUNDRED THREE THOUSAND ONE HUNDRED THIRTY-FIVE AND NO/100 DOLLARS (\$4,103,135.00), with any costs in excess thereof, if any, being funded by Developer, subject to Developer's right to apply any cost savings realized from the City-owned Improvements (as defined in the RDA) to reduce its liability for cost overruns hereunder. Upon Completion, the Improvements shall be owned by the City.

(5) Pursuant to the RDA, the City will grant Developer a temporary construction easement over that portion of City land to be included within the Improvements or immediately adjacent thereto, for the purposes of the construction of the Improvements.

1.2 Design, Construction Budget. The total estimated design and construction costs of the Improvements are estimated to be up to FOUR MILLION ONE HUNDRED THREE THOUSAND ONE HUNDRED THIRTY-FIVE AND NO/100 DOLLARS (\$4,103,135.00). A final Budget setting forth the costs of the 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 Improvements shall be attached hereto as **Exhibit D**. 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 Improvements is FOUR MILLION ONE HUNDRED THREE THOUSAND ONE HUNDRED THIRTY-FIVE AND NO/100 DOLLARS (\$4,103,135.00). Developer has also agreed to construct additional improvements related to the Project on behalf of the City, which shall include the Marina Improvements, Pier Improvements, Bulkhead Improvements and Marina Support Building Improvements, pursuant to separate costs disbursement agreements, as further detailed in the RDA. Upon completion of the Improvements, any cost savings realized by the Developer pursuant to this Agreement below the Maximum Indebtedness amount may be applied to any cost overruns associated with Developer's concurrent redevelopment of the Marina Improvements, Bulkhead Improvements, and/or Pier Improvements. Otherwise, any savings under this

Agreement shall inure to the benefit of City. Likewise, if upon Substantial Completion, as defined herein, the Verified Direct Costs of the Improvements exceed the Maximum Indebtedness amount hereof, with written notice to the City and DIA, the Developer may apply any cost savings realized (after Substantial Completion thereof) from the Marina Improvements, Bulkhead Improvements, Pier Improvements, and/or Marina Support Building Improvements to reduce its liability for cost overruns in the approved Budget hereunder, and the parties shall enter into an amendment to this Agreement to increase the Maximum Improvements Disbursement Amount hereof accordingly.

1.5 Availability of Funds. Notwithstanding anything to the contrary herein, the City's financial obligations under this Agreement are subject to and contingent upon the availability of lawfully appropriated funds for the Improvements and this Agreement. City agrees to file legislation seeking City Council authorization (in its sole and absolute discretion) and appropriation of funds as necessary for this Agreement.

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 Direct Costs for the Improvements attached hereto as **Exhibit D**, and showing the total costs for each line item, as the same may be revised from time to time with the written approval of Developer and the City's Director of Public Works subject to the restrictions and limitations contained herein. Upon execution of this Agreement, Developer shall submit its Budget (along with its Plans and Specifications, defined below) for the Improvements to the City, which shall be subject to the review and approval by the City in its reasonable discretion. Any revisions to the Budget arising from the City's change in scope shall be subject to the review and approval by Developer in its reasonable discretion; provided however, that the Developer may (i) with the City's prior written consent (which shall not be unreasonably withheld, delayed or conditioned) reallocate to any other line item shown on the Budget to fund unforeseen costs or cost overruns, any portion of the amounts allocated to the "Contingency" line item of the Budget, and (ii) reallocate to any line item in the Budget all or any portion of any cost savings generated from any other line item in the Budget.

2.2 **"Commence Construction"** The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the Improvements or any portion thereof means the date when Developer (i) has obtained all Federal, State or local permits as required for the construction of such portion of the 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 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.

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

2.4 **“Completion Date”** The term “Completion Date” as used herein means the completion date described in Exhibit E.

2.5 **“Construction Contract”** means any contract between Developer and a General Contractor for the construction of the 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. The Developer may enter into one (1) or more Construction Contracts with more than one (1) General Contractor for the Improvements.

2.6 **“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 Improvements.

2.7 **“Construction Inspector”** has the meaning ascribed in Section 3.7.

2.8 **“Construction Management Fees”** has the meaning ascribed in Section 3.5.

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

2.10 **“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 Improvements, and any amendments or modification thereto.

2.11 **“Direct Costs”** means direct design, engineering, permitting and construction costs incurred by Developer after the Effective Date of this Agreement in connection with the Improvements, surveys, geotechnical environmental and construction testing, and Construction Inspector’s fees, including, without limitation, soft and hard costs associated with the project management, design, engineering, permitting and construction testing, all pertaining only to the Improvements and as itemized in the Budget for such Improvements. Except as otherwise specifically provided in this Agreement, Direct Costs shall not include any Developer fees.

2.12 **“Disbursements”** means the disbursements to Developer of Developer’s Verified Direct Costs for the Improvements as approved by the City pursuant to this Agreement for the design, engineering, permitting, construction and inspection of the Improvements, not to exceed the Maximum Improvements Disbursement Amount with respect to all of the Improvements. Any Disbursements shall be made in the time and manner set forth in Article 5, subject to the

conditions set forth in this Agreement. No portion of the amounts allocated for the Improvements as shown in the Budget shall be disbursed to Developer unless such improvements comply in all material respects with the Plans and Specifications and description of the 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 Improvements as described in **Exhibit D**, as reasonably determined by the Director of Public Works or his or her designee.

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

2.14 **“Governmental Requirement”** means any generally applicable permit, law, statute, code, rule, regulation, ordinance, order, judgment, decree, writ, injunction, franchise or license of any governmental, quasi-governmental and/or regulatory national, state, county, city or other local entity with jurisdiction over the Improvements. Governmental Requirements shall include all generally applicable, relevant, or appropriate Florida Statutes and City of Jacksonville Ordinances including, without limitation, any regulation found in Florida Administrative Code; and all Florida Statutes, City of Jacksonville Ordinances and regulations or rules now existing or in the future enacted, promulgated, adopted, entered, or issued, whether by any national, state, county, city or other local entity, both within and outside present contemplation of the respective parties to this transaction.

2.15 **“Impermissible Delay”** means, subject to the Force Majeure provisions of Section 11.2, failure to proceed with reasonable diligence with the construction of the Improvements in the reasonable judgment of the City or Construction Inspector, or if the City or Construction Inspector is of the reasonable opinion that the Improvements at issue cannot be Completed by the Completion Date for such improvements, or abandonment of or cessation of work on the Improvements at any time prior to the Completion of any 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's negligence, or other causes beyond Developer's reasonable control, in which case such period shall be the actual period of delay.

2.16 **“Improvements”** means any portion of the Improvements or other related improvements described herein as determined by the context of the usage of such term.

2.17 **“Improvements Costs”** means, depending upon the context of the usage of the term, the Direct Costs of the design, engineering, permitting, construction and inspection of the Improvements to be undertaken by Developer.

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

2.19 **“Maximum Improvements Disbursement Amount”** means the maximum aggregate total of all disbursements to Developer for the Improvements as approved by the City of sums equivalent to Developer's Verified Direct Costs for the Improvements for the design, engineering, permitting, construction and inspection of the Improvements. The Maximum Improvements Disbursement Amount for the Improvements shall be the lesser of the Verified

Direct Costs for the Improvements or FOUR MILLION ONE HUNDRED THREE THOUSAND ONE HUNDRED THIRTY-FIVE AND NO/100 DOLLARS (\$4,103,135.00). Any Disbursements will be made as provided in this Agreement.

2.20 **“Payment Bond”** and **“Performance Bond”** have the meanings ascribed in Section 7.21.

2.21 **“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 Improvements or any portion thereof, prepared by the Design Professional and approved by the City, and any and all modifications thereof made with the written approval of the City in its reasonable discretion.

2.22 **“Riverwalk Landscaping Improvements”** means the landscaping as shown and as approved for the “Shipyards Marina, Support Building, Event Lawn and Riverwalk” project (CDN 616.364) as approved on October 30, 2024, more fully identified in sheets L-001 through L-709.

2.23 **“Substantial Completion”** means the satisfaction of the Improvements Completion Conditions applicable to the Improvements, as described in Section 7.13. The date of Substantial Completion of the Improvements is the date of a letter from the applicable Design Professional stating that such improvements are substantially complete in accordance with the approved plans and specifications and available for use in accordance with its intended purpose, and after the Improvements are inspected and approved by the City. Such letter is referred to herein as the **“Substantial Completion Letter”**. The one-year warranty as described herein on the Improvements begins on the Substantial Completion date of the Improvements and the Riverwalk Landscaping Improvements, respectively.

Notwithstanding the foregoing, provided the Improvements, exclusive of the Riverwalk Landscaping Improvements, have been Substantially Completed in accordance with this Agreement, the Improvements, exclusive of the Riverwalk Landscaping Improvements, may be deemed Substantially Complete for the purposes of dedicating such improvements to the City and opening such improvements for use by the general public.

2.24 **“Verified Direct Costs”** means the Direct Costs actually incurred by Developer for Work in place as part of the Improvements, as certified by the Construction Inspector pursuant to the provisions of this Agreement, less any proceeds from the sale of tangible personal property.

2.25 **“Work”** means workmanship, materials and equipment necessary to this Agreement, and any and all obligations, duties and responsibilities necessary to the successful completion of the 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 Direct Costs incurred and paid for the design, engineering, permitting, construction and inspection of the Improvements on the terms and conditions hereinafter set forth. The amount of such disbursements shall not exceed in the aggregate the maximum amount of up to FOUR MILLION ONE HUNDRED THREE THOUSAND ONE HUNDRED THIRTY-FIVE AND NO/100 DOLLARS (\$4,103,135.00). Developer shall be responsible for all costs of the Improvements beyond such amount except to the extent that such amounts may be offset by cost savings realized by Developer in connection with the Marina Improvements, Pier Improvements, Bulkhead Improvements or Marina Support Building Improvements. Likewise, should the total Verified Direct Costs incurred by Developer at Substantial Completion applicable to the Improvements amount to a sum less than the Maximum Improvements Disbursement Amount, Developer may apply such cost savings to any cost overruns incurred in connection with the authorized Budgets for each of the Marina Improvements, Bulkhead Improvements and/or Pier Improvements. Thereafter, any cost savings shall inure to the benefit of City.

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 Direct Costs for the Improvements as authorized by this Agreement and for no other purpose.

3.3 Deficiency in Maximum Improvements Disbursement Amount; Developer Obligation for any Shortfall in the Improvements Budgeted Costs. If, prior to Substantial Completion, the City reasonably determines that the actual cost to complete construction of the Improvements exceeds the Maximum Improvements Disbursement Amount, the City shall provide written notice of such to Developer. Developer, the City, the General Contractor and the Design Professionals shall meet and determine how to make adjustments to the Plans and Specifications for the Improvements, subject to approval thereof in the City's sole but reasonable discretion, and Developer shall be responsible for the payment of any amounts in excess of the Maximum Improvements Disbursement Amount but may apply cost savings realized from the Marina Improvements, Pier Improvements, Bulkhead Improvements or Marina Support Building Improvements, to offset such amount. In no event will the City be responsible for any shortfall in the amounts necessary to Complete Construction of the Improvements. If Developer fails to continue construction at its own cost, or fails to timely complete construction due to a shortfall or for any other reason, the City in its sole discretion may choose to terminate the City's additional obligations hereunder, and/or complete the remaining portion of the Improvements (on its own or through a third party contractor or Developer and in compliance with the Plans and Specifications). If the City completes any portion of the Improvements, Developer shall be liable to the City for the costs thereof in excess of the amount allocated for such portion of the Improvements as shown on Exhibit D, and such repayment obligation of Developer shall survive any termination or expiration of the City's obligations hereunder.

3.4 Retainage. The City shall retain and accumulate ten percent (10%) of all Disbursements except soft costs ("Retainage") for the Improvements under construction until such time as Substantial Completion in accordance with this Agreement as certified by the Construction Inspector. The Retainage amount will be disbursed with the final Disbursement for

the Improvements upon satisfaction of the Improvements Completion Conditions for the Improvements, subject to the Maximum Improvements Disbursement Amount.

3.5 Project Management Fees/Construction Management Fees. No development fees of Developer shall be paid to Developer under this Agreement, and no such fees are owed to Developer as of the Effective Date. Any project management fees actually paid to a third-party project manager and any construction management fees actually paid to the General Contractor as set forth in the Budget (“Construction Management Fees”) may be paid as part of a Disbursement 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 Improvements and upon approval of the amount of such fees by the City. All requests for Construction Management Fees must be included in a Disbursement Request as a separate line item, and the aggregate amount of such fees shall be set forth in the applicable Construction Contract, which is subject to the City’s approval (such approval not to be unreasonably withheld).

3.6 Procedures for Payment. Each of the Disbursements shall be made upon written application of Developer pursuant to a Disbursement Request (as hereinafter defined), subject to Article 5 below and the other terms of this Agreement. Each Disbursement Request shall constitute a representation by Developer that the Work done and the materials supplied for the Improvements are in accordance with the Plans and Specifications for the Improvements; that the Work and materials for which payment is requested have been paid for by Developer and physically incorporated into the Improvements; that the value is as stated; that the Work and materials conform in all material respects 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, to Developer’s knowledge, and subject to any extension of the Completion Date as a result of Force Majeure or any extensions granted pursuant to Section 4.1 of the RDA, amount of proceeds requested by Developer, 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.

3.7 Construction Inspector. The Construction Inspector shall be a construction engineering consultant approved by the City (such approval not to be unreasonably withheld) and engaged by Developer for standard inspections of the Improvements as provided herein. All fees for the Construction Inspector shall be included in the Budget be deemed a part of the Direct Costs. The Construction Inspector will inspect the construction of the Improvements as provided herein, review and advise Developer and the City jointly with respect to the Construction Documents, and other matters related to the construction, operation and use of the Improvements, monitor the progress of construction, and review and sign-off on each Disbursement Request and any change orders submitted hereunder. Developer shall make Developer’s construction management facilities located on or around the project site available for the City and Construction Inspector for the inspection of the Improvements during normal business hours upon reasonable prior written notice, and Developer shall afford full and free access by City and Construction Inspector to all Construction Documents at the project site during normal business hours upon reasonable prior written notice. City shall be granted access to the project site during normal business hours upon reasonable prior notice to inspect the Work in progress and upon Substantial Completion.

Developer acknowledges that (a) Construction Inspector shall in no event have any power or authority to make any decision or to give any approval or consent or to do any other thing which is binding upon the City and any such purported decision, approval, consent or act by Construction Inspector on behalf of the City shall be void and of no force or effect, (b) the City reserves the right to make any and all decisions required to be made by the City under this Agreement, in its reasonable discretion, without in any instance being bound or limited in any manner whatsoever by any opinion expressed or not expressed by Construction Inspector to the City or any other person with respect thereto, and (c) the City reserves the right in its sole and absolute discretion to replace Construction Inspector with another inspector reasonably acceptable to Developer at any time and with reasonable prior written notice to Developer.

3.8 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 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.

3.9 Performance Schedule. Developer and City, reasonably and in good faith, shall jointly establish dates for the performance of Developer's obligations under this Agreement, which shall be set forth in Exhibit E attached hereto and incorporated herein by this reference (the "Performance Schedule").

3.10 Progress Reports. During the period of construction of the 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 Improvements, which shall include: (i) certification by Developer's engineer (or such other Design Professional reasonably acceptable to the City) of (a) the total dollars spent to date, and (b) the percentage of completion of the 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 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 Improvements within fifteen (15) days after the close of the month.

3.11 Pre-Construction Meetings; Critical Path Diagram. The City and Developer shall meet no later than ten (10) days prior to the Commencement Date for construction of the Improvements. At such meeting, Developer shall provide to the City a logical network diagram describing all components of the construction of the Improvements to be constructed, in a critical path format (the "Critical Path Diagram"), in accordance with the Performance Schedule. Developer shall update the Critical Path Diagram monthly and submit the updated Critical Path Diagram to the City monthly. Additionally, at such meeting Developer shall submit a complete schedule of values for the construction of the Improvements (the "Schedule of Values"), which Developer shall also update monthly to show all items completed and provide the updated version to the City.

3.12 No Warranty by City. Nothing contained in this Agreement or any other Improvements Document shall constitute or create any duty on or warranty by City regarding (a) the accuracy or reasonableness of the Budget; (b) the feasibility or quality of the construction documents for the Improvements; (c) the quality or condition of the Work; or (d) 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 Improvements. Developer acknowledges that Developer has not relied and will not rely upon any experience, awareness or expertise of City, or any City inspector, regarding the aforesaid matters.

ARTICLE 4 DISBURSEMENT REQUEST

4.1 Request for Disbursement; Payment by City. Developer shall submit to the City, no more frequently than monthly and at least thirty (30) calendar days prior to the requested date of disbursement, a completed written disbursement request (“Disbursement Request”) in the form as set forth in **Exhibit F** 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 Improvements, 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 Direct 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 Improvements under construction (collectively, the “Supporting Documentation”). The City shall pay to Developer the amount of the 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 and in good faith 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. Any written notice shall state with specificity the basis of the dispute. 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 thirty (30) calendar day period, disburse to Developer the non-disputed portion of the funds requested pursuant to the 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 Improvements to date, (b) the percentage of completion of the Improvements and (c) estimates of the remaining costs to complete the Improvements. Developer shall also promptly furnish to City such other information concerning the Improvements as City may from time-to-time reasonably request.

4.2 Frequency of Disbursement Requests. Notwithstanding anything in this Agreement to the contrary, Developer may only submit one (1) Disbursement Request per month for the Improvements.

4.3 Inspection. Upon receiving a Disbursement Request, the City shall have the right, but not the obligation, to determine in its reasonable discretion (a) whether the Work with respect to the Improvements 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 Improvements completed as of the date of such Disbursement Request for purposes of determining, among other things, the Direct Costs actually incurred for Work in place as part of the Improvements as of the date of such Disbursement Request, (c) the actual sum necessary to Complete Construction of the Improvements in accordance with the Plans and Specifications, and (d) the amount of time from the date of such Disbursement Request which will be required to Complete Construction of the Improvements in accordance with the Plans and Specifications. 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.

4.4 Right To Withhold Funds. The City may elect to withhold any Disbursement, notwithstanding the substance of any report of the Construction Inspector, or any documentation submitted to the City in connection with a Disbursement Request, if the City or DIA reasonably determines at any time that the actual cost budget or progress of construction of the Improvements differs materially from that shown by Developer, or that the percentage of progress of construction of the Improvements differs materially from that as shown on the Disbursement Request for the period in question. In such event the City may request submission of revised construction budgets and the City may require Developer to fund the construction of the Improvements until the City has determined that the remaining Disbursements available for the Improvements will be sufficient to Complete Construction of the Improvements in accordance with the Plans and Specifications.

4.5 Disbursements. 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.

ARTICLE 5

CONDITIONS TO DISBURSEMENT

5.1 General Conditions to Disbursement. Subject to compliance by Developer with the terms and conditions of this Agreement in all material respects, the City shall make Disbursements in an amount per Disbursement which does not exceed the then unreimbursed Verified Direct Costs of the Improvements, up to the Maximum Improvements Disbursement Amount, with Developer being solely responsible for all costs in excess thereof subject to the terms and conditions of Section 1.4. Notwithstanding anything to the contrary herein in no event shall the City be obligated to make Disbursements which are, in the aggregate, in excess of the Maximum Improvements Disbursement Amount. 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 and the Disbursement is otherwise in accordance with the requirements of this Agreement; or (b) if an Event of Default or an 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.

5.2 **Conditions to Disbursement for Work Performed Prior to Effective Date of this Agreement.** The City's obligation hereunder to make any Disbursement with respect to the Improvements for Direct Costs incurred prior to the Effective Date hereof, but incurred no earlier than June 10, 2021, is conditioned upon the City's review and approval of such Direct Costs and the receipt of a Disbursement Request along with each the following, each in form and substance reasonably satisfactory to the City (collectively, the "Supporting Documentation"):

(1) A certificate from the Developer certifying 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 this Agreement.

(2) The Supporting Documentation described in Section 4.1 above.

5.3 **Conditions to Initial Disbursement for Work Performed After the Effective Date of this Agreement.** The City's obligation hereunder to make the initial Disbursement with respect to the Improvements for Verified Direct Costs incurred on or after the Effective Date hereof is conditioned upon the City's receipt of a Disbursement Request along with each the following, each in form and substance reasonably satisfactory to the City (collectively, the "Supporting Documentation"):

(1) A certificate from the Developer certifying 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 this Agreement.

(2) A satisfactory inspection report from Construction Inspector with respect to the applicable portion of the Improvements that has been constructed, which shall be delivered by Construction Inspector with the Disbursement Request.

(3) The Supporting Documentation described in Section 4.1 above.

(4) Evidence that Developer has obtained all permits or other approvals necessary for the Improvements from governmental or quasi-governmental authorities (including without limitation the St. Johns River Water Management District and FDEP) having jurisdiction over the 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**") and are or will be final, unappealed, and unappealable, and remain in full force and effect without restriction or modification, along with copies thereof.

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

(1) A Disbursement Request, together with all required Supporting Documentation.

(2) A satisfactory inspection report with respect to the Improvements from the City, which shall be delivered with the applicable Disbursement Request.

(3) An updated Budget showing the amount of money spent or incurred to date on particular items and the remaining costs for the Improvements which shall be delivered with the applicable Disbursement Request.

(4) An updated Schedule of Values, which shall be delivered with the applicable Disbursement Request.

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

(1) A Disbursement Request, together with all required Supporting Documentation.

(2) An updated Budget, showing the amount of money spent or incurred to date on all of the Improvements.

(3) Evidence that all Improvement Completion Conditions have been satisfied with respect to the Improvements, inclusive of the Riverwalk Landscaping Improvements.

(4) Substantial Completion of the Riverwalk Landscaping Improvements and acceptance thereof by the City on or before the Hotel Improvements Completion Date.

(5) A complete set of signed and sealed "as built" Plans and Specifications.

(6) A final as-built survey showing all of the Improvements and applicable easements in compliance with the requirements of Section 7.9.

(7) Evidence reasonably satisfactory to the City that Developer has Substantially Completed the Improvements and has provided satisfactory evidence of the satisfaction of the Improvements Completion Conditions set forth in Section 7.13 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, if any, 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 Improvements. Unless otherwise agreed in writing by City, ongoing physical construction of the Improvements shall commence by the Commencement Date as established pursuant to Section 2.2 and shall be carried on diligently without any Impermissible Delays.

7.2 Manner of Construction of the Improvements. Developer shall cause the Improvements to be constructed in a good and workmanlike manner, in substantial accordance with the applicable Plans and Specifications and in compliance with all Governmental Requirements.

7.3 Plans and Specifications for the Improvements. Prior to the Commencement of Construction of the Improvements and prior to entering into any Construction Contract, 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 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 within thirty (30) days of submission in form reasonably acceptable to the City, and (iii) shall be subject to the City’s approval in its reasonable discretion. Developer shall use the approved Plans and Specifications to solicit bids and/or proposals for the construction of such Improvements if a design-bid-build procurement process is undertaken in accordance with this Agreement, but the Developer may use any procurement method in compliance with Section 287.055, Florida Statutes, and otherwise in compliance with the applicable Governmental Requirements. 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 Improvements during normal business hours upon reasonable prior written notice during construction to confirm such Improvements are constructed consistent with the approved Plans and Specifications.

7.4 Pre-Construction Surveys and Proof of Ownership. On or before the Commencement Date, Developer shall deliver to the City a survey (meeting Florida minimum technical standards) and legal description for the Riverwalk Parcel, which will cover the proposed Improvements as well as the location of utility and drainage easements and utility sites burdening the Riverwalk Parcel. The form and content of the survey and legal description 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. After the Effective Date, Developer shall be responsible for overseeing the design, permitting and construction of the Improvements under the terms and conditions of this Agreement.

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

(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, and otherwise in compliance with applicable Governmental Requirements 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 Improvements and any portion thereof shall be in compliance with Section 287.055, and Section 255.20, Florida Statutes. 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. 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 must comply with the procurement requirements of Florida law for public construction projects, including but not limited to Section 287.055, Florida Statutes.

(2) After awarding a Construction Contract for any portion of the Improvements, Developer shall in a timely manner notify the General Contractor to proceed with the Work of constructing such portion of the Improvements. No notice to proceed shall be given until, and the parties' obligations hereunder shall be conditioned upon, satisfaction of the following conditions:

(i) The City shall have received evidence reasonably satisfactory to it that the Improvements Costs will not exceed the amount set forth in the Budget, and that the Improvements will be completed by the Completion Date;

(ii) Developer shall provide to the City payment and performance bonds in form and content reasonably acceptable to the City in accordance with this Agreement as set forth in Section 7.21 below and **Exhibit G** attached hereto;

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

(iv) The parties have complied with the Pre-Construction Meeting requirements of Section 3.11.

(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, inspecting the Work and providing to the City on a monthly basis periodic reports on the progress of the Improvements in compliance with procedures reasonably satisfactory to the City. The City shall be entitled to review the General Contractor's (or construction manager's) draw requests (to be submitted in a format reasonably acceptable to the City).

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 Improvements if requested by City. Developer shall work diligently to complete construction of the 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 Improvements released or transferred to bond within twenty (20) days of the date Developer receives notice of the filing of such lines or encumbrances. City shall not be responsible for any lien or encumbrance related to the 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 related to construction of the Improvements.

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 Improvements within sixty (60) days after Substantial Completion of construction thereof.

7.10 Compliance with Laws and Restrictions. All construction of any portion of the Improvements shall be performed in accordance with all Governmental Requirements. All contractors, subcontractors, mechanics or laborers or other persons providing labor or material in construction of any portion of the 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 or a license to use the same in connection with the right to construct the Improvements; provided, however, that so long as no Event of Default exists, Developer may continue to exercise and enjoy all of its right, title, interest

and benefits in or under the Construction Documents. Developer represents and warrants that it has permission and authority to convey ownership of the Construction Documents as set forth herein.

7.12 Authority of City to Monitor Compliance. During all periods of design and construction, Developer shall permit the City's Director of Public Works and the Director of Parks, Recreation and Community Services, and their respective designated personnel, to monitor compliance by Developer with the provisions of this Agreement, the Construction Documents and the 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 Improvements, during normal business hours upon reasonable prior notice, provided, however, that Developer shall have the right to have a representative of Developer present during any such inspection.

7.13 Completion of the Improvements. Subject to the terms of this Agreement and to the Force Majeure provisions of Section 11.2, Developer shall Complete Construction of the Improvements by no later than the Completion Date and, as to the Riverwalk Landscaping Improvements, by the earlier to occur of (i) ninety (90) days from the Substantial Completion of the Marina Improvements, or (ii) the Hotel Improvements Completion Date. For purposes of this Agreement, Completion of the Improvements and the Riverwalk Landscaping Improvements, respectively, shall be deemed to have occurred only when each of the following conditions (the "Improvements Completion Conditions") shall have been satisfied:

(1) 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 the Improvements and Riverwalk Landscaping Improvements, respectively, through the date of Substantial Completion reflected in the Disbursement Request;

(2) The Improvements and Riverwalk Landscaping Improvements shall have been finally completed in all material respects in substantial accordance with the applicable Plans and Specifications, as verified by a final inspection report reasonably satisfactory to City from the Construction Inspector, certifying, that the Improvements and Riverwalk Landscaping Improvements, respectively, have been constructed in a good and workmanlike manner and are in satisfactory condition and are ready for immediate use;

(3) The City shall have issued the Substantial Completion Letter as to the Improvements and Riverwalk Landscaping Improvements, respectively, stating that the Improvements and Riverwalk Landscaping Improvements are Substantially Complete and may be used for their intended purpose; and

(4) Developer shall cause the General Contractor to provide a one-year warranty on the Improvements and Riverwalk Landscaping Improvements, respectively, with said warranty commencing on Substantial Completion and acceptance by the City of the Improvements and Riverwalk Landscaping Improvements, respectively.

7.14 Change Orders. In connection with any portion of the 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 change orders be made thereunder, without the prior written consent of the City in its reasonable discretion. Developer shall notify the City in writing of any requested 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 approves the Developer Change Order Request and whether the City is willing to authorize any associated delay in the Completion Date set forth therein. If the City does not approve the Developer Change Order Request, the City 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 and the City, 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 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 change order response period. Notwithstanding anything herein, any increased costs in excess of the Maximum Improvements Disbursement Amount resulting from any and all Approved Change Orders during the construction of the Improvements shall be the responsibility of Developer, except to the extent that the Developer may offset this amount by applying cost savings realized from the Marina Improvements, Pier Improvements, Bulkhead Improvements or Marina Support Building Improvements, if any. For the purposes of this Section 7.14, "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 \$50,000 as to any single amendment, \$100,000 to any cumulative changes to a single line item, or \$500,000 in the aggregate and/or that materially change the scope of the Improvements or are anticipated to cause associated delays in the Completion Date. Notwithstanding the foregoing, at the time the final budget, plans and specifications are approved, the City will identify specific line items and/or design features in the budget that shall be deemed material and may not be amended without the City's approval in its reasonable discretion. Exterior, visible components of the Improvements (inclusive of landscaping) are deemed material.

7.15 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 reasonably objectionable to City. If requested by City, Developer shall deliver to City a fully executed copy of each of the agreements between Developer and such contractors and between the General Contractor and its subcontractors, each of which shall be in form and substance reasonably satisfactory to City. City's approval of a construction contract is specifically conditioned upon the following: (a) the total contract price thereof does not exceed the fair and reasonable cost of the Work to be performed thereunder, (b) the contractor or subcontractor is of recognized standing in the trade, or is otherwise reasonably acceptable to City, and (c) approval of the City's Procurement Department based on its standard prequalification criteria for construction work on City property, provided such contractors or subcontractors are determined by Developer to be qualified and experienced in the design and construction of the Improvements.

7.16 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 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.

7.17 Indemnification.

Except for Damages (as hereinafter defined) arising out of the gross negligence or willful misconduct of any of the Indemnified Parties (as hereinafter defined), Developer shall indemnify the City, and its 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 Improvements, which Damages are not paid or reimbursed by or through the Payment and Performance Bond or Insurance as required under this Agreement. This indemnification shall survive the expiration or termination of this Agreement for a period of four (4) years. The term "Indemnified Parties" as used in this Section shall include the City, and all officers, board members, City Board members, City Council members, employees, representatives, agents, successors and assigns of the City. This Section 7.17 shall survive the expiration, earlier termination or completion of this Agreement for a period of four (4) years.

7.18 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.

7.19 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 Construction Inspector certified copies of test results made of the materials or articles which are to be incorporated in the Work for approval. When so requested, 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's 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.

7.20 Warranty and Guarantee of Work.

(1) For a period of one year after the Completion Date, 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 7.19. All Work not in conformance

to the requirements of this Agreement, including substitutions not properly approved and authorized, may be considered defective during such one-year period. 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.

(2) If, within one year of acceptance of the 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, 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.

(3) During the one year warranty period, including any additional warranty period for corrective work, 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.

(4) During the one year warranty period, including any additional warranty period for corrective work, 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. 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 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.

(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.

(6) Upon Substantial Completion and payment to Developer of the final Disbursement, Developer may assign to the City all of Developer's right, title and interest in and to any and all warranties and guaranties related to the Work provided by any General Contractor or supplier of materials, provided such warranties and guaranties are consistent with Sections 7.20.1 through 7.20.5 above, and thereafter Developer shall have no obligations under this

Section. Except as specifically set forth in this Section, Developer hereby disclaims any implied warranty or representation concerning the Improvements.

7.21 Payment and Performance Bonds.

(1) Prior to commencing any work on the Improvements, Developer shall cause all primary contractors to furnish Performance and Payment Bonds for the Improvements in compliance with Section 255.05, Florida Statutes, as security for its faithful performance under this Agreement. The Bonds shall be in an amount at least equal to the amount of the Direct Costs for the construction of the Improvements. The Bonds shall be in a form in compliance with applicable law and reasonably acceptable to the City, and with a surety that is reasonably acceptable to the City's Division of Insurance and Risk Management. The cost thereof shall be included in the applicable Budget for the Improvements and reimbursed by the City as part of the Disbursement. The Payment and Performance Bonds for the Improvements shall be recorded in connection with the recording of the notice of commencement for the Improvements and delivered to the CEO of the Downtown Investment Authority prior to Commencement of Construction.

(2) The Performance and Payment Bonds for the Improvements shall accompany the Budget and Plans and Specifications submitted to the City for approval and shall be compliant with the requirements of Section 255.05, Florida Statutes, with such approval as to the payment and performance bonds not to be unreasonably withheld, conditioned or delayed. The duly executed, recorded Performance and Payment Bonds shall be delivered prior to Commencement of Construction.

(3) If any surety upon any bond furnished in connection with this Agreement becomes unacceptable to the City in the City's reasonable, good faith determination, or if any such surety fails to furnish reports as to its financial condition from time to time as reasonably requested by the City, Developer shall, at its own expense, promptly provide a substitute surety or promptly furnish such additional security as may be reasonably 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.

7.22 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:

(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., and shall 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 Direct Costs of the construction of the Improvements or the City's maximum contribution to the Improvements, whichever is less,

provided such JSEBs are determined by Developer to be qualified and experienced in the design and construction of the Improvements.

(2) Developer shall submit a JSEB report regarding Developer's actual use of City certified JSEBs for design, engineering, permitting, and construction of the Improvements. A JSEB report shall be submitted on a quarterly basis until Substantial Completion of Construction of the 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").

7.23 Indemnification by Contractors.

Developer agrees to include the indemnification provisions substantially in the form 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 in its sole discretion (except for assignment to affiliates of Developer of which Developer has a managing interest) assign, transfer or convey this Agreement or the 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's 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 in its 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:

(1) A breach by any party of any 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 one hundred twenty (120) days so long as the defaulting party is diligently and in good faith pursuing such cure;

(2) Any representation or warranty made by any party to this Agreement 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;

(3) A continuing default by Developer after the expiration of all applicable notice and cure periods under the Improvements Documents;

(4) The termination of, or default under (after the expiration of all applicable notice and/or cure periods contained therein), the Construction Contract by Developer, 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;

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

(6) Failure of Developer to Complete Construction of the Improvements, or abandonment of or cessation of Work on any portion of the 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 actual period of delay;

(7) The entry of a decree or order by a court having jurisdiction in the premises adjudging any party to this Agreement 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

(8) The institution by any party to this Agreement 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 attributable to Developer, subject to the notice and cure requirements set forth in Section 9.1.1, the City may refuse to make any further Disbursements and terminate City's commitment to make any portion of the Disbursements hereunder, except for Verified Direct Costs for Work actually performed prior to the date giving rise to the Event of Default, subject in all respects to the Maximum Improvements Disbursement Amount.

9.2.1 In the event Developer's action giving rise to an Event of Default pertains to any failure by Developer to Commence Construction or achieve Substantial Completion of the Improvements within the time periods required herein, subject to Force Majeure, the other terms and conditions contained herein and any extensions granted pursuant to Section 4.1 of the RDA, the City shall be entitled (but not obligated) to (i) complete the Improvements, and/or (ii) terminate the City's obligation to pay for any other Improvements Costs hereunder, subject to the following the sentence.

(i) In the event the City elects to complete the Improvements, or to complete the improvements pursuant to revised plans and specifications, the City shall pay Developer for Verified Direct Costs for Work actually performed prior to the occurrence of the date of termination after the Event of Default, but only to the extent funding is available as calculated by the Maximum Improvements Disbursement Amount, less the actual costs to the City in substantially completing the Improvements or revised improvements.

(ii) In the event the City elects to terminate the City's obligation to pay for any other Improvement Costs, hereunder, the following shall apply:

(a) In the event Construction has not commenced and the City elects to terminate its obligation hereunder rather than to complete the Improvements, the City shall have no financial obligation to reimburse Developer.

(b) In the event the Developer is determined to abandon construction of the Improvements, the City shall have no obligation to reimburse Developer for work performed prior to abandonment.

(c) In the event Developer has commenced construction of the Improvements, but an uncured Event of Default exists for a reason other than abandonment and the City elects to terminate the City's obligations hereunder rather than to complete the improvements, the City shall reimburse Developer for Verified Direct Costs incurred prior to the Notice of Default for those portions of the Improvements that the City is able to utilize for their intended purpose but only to the extent funding is available as calculated by the Maximum Improvements Disbursement Amount.

The following shall apply under any circumstance under (i) or (ii) outlined above;

(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 reasonable 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's 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 Improvements in accordance with the terms and conditions of this Agreement and all Exhibits hereto.

9.2.2 Notwithstanding anything herein, upon any breach by the City hereunder, Developer's maximum damages hereunder (including prejudgment interest) shall be limited to the undisbursed Direct Costs, up to the Maximum Improvements Disbursement Amount, required for the completion of the construction of the 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 Improvements then under construction in accordance with the costs in the Budget and pursuant to the Plans and Specifications, and shall be disbursed in accordance with this Agreement and the terms of the RDA. In the event the City fails to timely pay to Developer the Disbursements subject to and in accordance with the terms and conditions of this Agreement, or upon any other Event of Default attributable to the City beyond the applicable notice and cure periods, Developer shall have the remedies as set forth in this Agreement. Any amounts due to Developer under this Agreement and unpaid after thirty (30) days when due shall bear interest at the rate of ten percent (10%) per annum.

Neither party to this Agreement shall be liable to the other for any punitive, speculative, or consequential damages of any kind.

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, wastewater, 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 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 Riverwalk Parcel that affect the construction of the Improvements, any increased cost for such shall be the responsibility of the Developer. 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 Riverwalk Parcel as a result of the construction of the Improvements, as between Developer and the City, such will be the responsibility of the Developer except as described in Section 10.4 of this Agreement. In the event Developer, its contractors, subcontractors, and agents handles Hazardous Materials attendant to construction of the 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 Riverwalk Parcel determined by a court of competent jurisdiction to have been directly caused by the actions of Developer occurring after the Effective Date (“New Release”). For purposes of clarity, any migration of Hazardous Materials within, into or out of the Riverwalk Parcel 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 determined by a court of competent jurisdiction to have been directly

caused by the Developer to the extent of and due to Developer 's negligence, recklessness, or intentional wrongful misconduct. Notwithstanding the foregoing, Developer shall not have any liability for any New Release caused by a third-party not acting by or through the Developer.

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, strikes, lockouts, riots, floods, named tropical storms or hurricanes, earthquakes, fires, 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, delays attributable to the City or any of its agencies in connection with the issuance of any Governmental Approvals, 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 notify the other party in writing within seven (7) calendar days of the Force Majeure 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 personally delivered or sent by registered or certified mail, return receipt requested, or delivered by a courier service utilizing return receipts, to the party at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notice 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 courier service, except that notice of a change in address shall be effective only upon receipt.

City:

City of Jacksonville

Department of Public Works
214 N. Hogan Street, 10th Floor
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

Developer:

Shipyards Hotel Jacksonville, LLC
1 TIAA Bank Field Drive
Jacksonville, Florida 32202
Attn: Megha Parekh

With a copy to:

Driver, McAfee, Hawthorne & Diebenow, PLLC
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

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. Neither this Agreement nor the obligations imposed upon City hereunder shall be or constitute an indebtedness of City within the meaning of any constitutional, statutory or charter provisions requiring City 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 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 and Developer. This Agreement shall be binding upon Developer, and Developer's successors and assigns, and shall inure to the benefit of City, and its 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 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 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 improvements and/or 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 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 Improvements Documents and to identify (subject to the liens of the 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 to protect the liens or the security interest under the 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 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. Scanned or faxed signatures shall suffice as original signatures, and the parties may exchange executed counterparts by fax or email, which shall be binding 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 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 the Work and Improvements, 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 the earlier of the termination of this Agreement and the Disbursement by the City under this Agreement with respect to the Work and Improvements. 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 owes the City or DIA additional monies, and the Developer does not make restitution within

thirty (30) days from the date of receipt of written notice from the City, then the City may pursue all available remedies under this Agreement and applicable law.

[Remainder of page left blank intentionally; signatures on following page.]

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

Form Approved:

Office of General Counsel

[signatures continue on following page]

Signed, sealed and delivered
in the presence of:

**SHIPYARDS MARINA
JACKSONVILLE, LLC,** a Delaware
limited liability company

Name Printed:

By: _____
Name: Drew Frick
Its: Vice President

Name Printed: _____

GC-#1709420-v3-Amended_and_Restated_Riverwalk_Improvements_Costs_Disbursement_Agreement_Iguana_Hotel.docx

Encumbrance and funding information for internal City use:

Account or POA Number: _____

1Cloud Account for Certification of Funds	Amount

This above stated amount is the maximum fixed monetary amount of the foregoing Contract. It shall not be encumbered by the foregoing Contract. It shall be encumbered by one (1) or more subsequently issued purchase order(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such purchase order(s) are issued.

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

Director of Finance
City Contract Number: _____

LIST OF EXHIBITS

EXHIBIT A	Description of Improvements/Plans and Specifications
EXHIBIT B	Riverwalk Parcel
EXHIBIT C	Reserved
EXHIBIT D	Budget for Improvements
EXHIBIT E	Performance Schedules
EXHIBIT F	Disbursement Request Form
EXHIBIT G	Insurance and Bond Requirements
EXHIBIT H	JSEB Reporting Form
EXHIBIT I	Indemnification Requirements of Contractors

EXHIBIT A

Description of Improvements

There currently exists a completed segment of the Riverwalk on the Riverwalk Parcel adjacent to the Hotel Parcel and Marina Support Building Parcel. Developer shall have the option to design and construct on behalf of COJ, subject to COJ approval of the plans and construction budget therefor, a new more resilient Riverwalk. Any reconstruction of the Riverwalk on the Riverwalk Parcel shall be completed in accordance with plans approved by DIA and COJ and shall comply with the adopted Riverwalk Park Design Criteria and Riverwalk Planting Palette and Thread Plant List, and to the extent not in conflict with the foregoing, the 2018 Riverwalk Design Guidelines prepared by SWA. The Riverwalk Parcel may include the node/art/tower element contemplated by the SWA Riverwalk Design Guidelines. Public access shall be maintained in the entire fifty (50') foot wide strip retained by COJ.

Consistent with the above criteria, the Riverwalk multi-use hard surface shall be a minimum of 15 feet in width and all landscape materials, lighting, street furniture, wayfinding, etc. shall be outside the 15' required clear travel path. Standard lighting and street furniture, and plant material, consistent with the Riverwalk Park Design criteria and the Riverwalk Planting Palette and Thread plant list shall be maintained to ensure a sense of continuity along the Riverwalk.

EXHIBIT B

Riverwalk Parcel

That certain parcel lying within the current Kids Kampus and consisting of a strip 50 feet in width immediately adjacent to and including the bulkhead abutting the Marina and current submerged lands leas all as more particularly described on the survey map below.

[See sketch following page.]

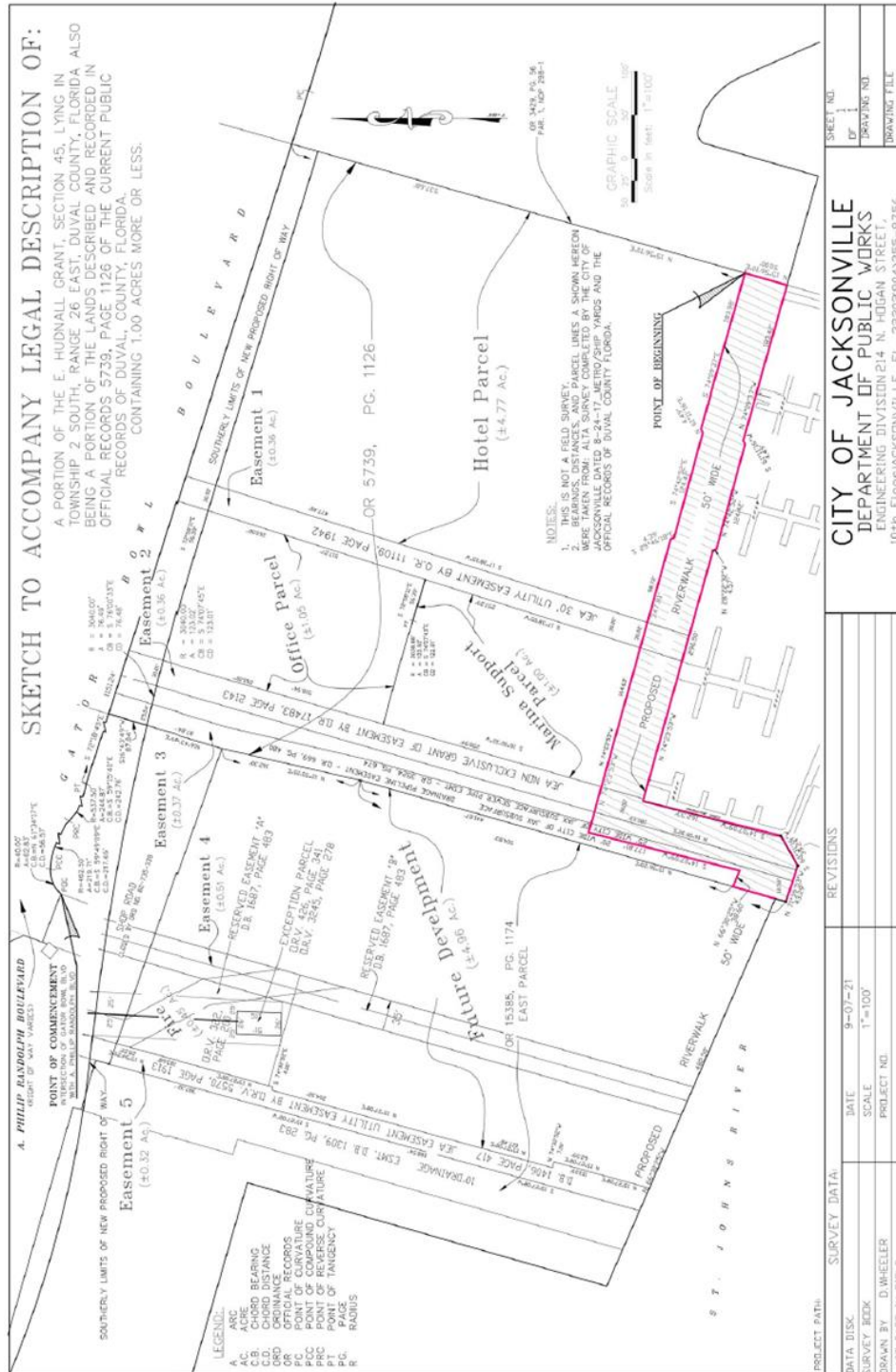


EXHIBIT C

Reserved

EXHIBIT D

Improvements Budget Estimate

The Riverwalk construction budget estimate of \$4,103,135.00 was provided by the Developer and confirmed by Public Works as reasonable for a project inclusive of site work, hardscape, landscape, lighting, street furniture and any other desired elements. A current upland Riverwalk section is costing approximately 3000 per linear foot and this segment is approximately 900+ feet in length. In this design, the Riverwalk will encompass the entire 50' strip between the bulkhead and the upland parcels making it double the width of the Riverwalk in traditional sections. The existing Riverwalk foundation will lower costs, but the new Riverwalk will elevate for resiliency and increased width will increase costs.

The final line-item budget will be attached and incorporated herein when final Plans and Specifications are approved by COJ Public Works and Parks and Recreation.

EXHIBIT E

Performance Schedule

- (a) Developer or its designated Affiliate shall have Substantially Completed construction of the Improvements, on the earlier of the opening of the Hotel Improvements (as defined in the RDA) to customers or August 30, 2026 (the “Completion Date”), subject to Force Majeure Events.

EXHIBIT F

Disbursement Request Forms

(Page 1 of 2)

CITY OF JACKSONVILLE, FLORIDA APPLICATION FOR PAYMENT NO. _____

PROJECT _____ BID NO. _____ CONTRACT NO. _____

For Work accomplished through the date of _____.

A. Contract and Change Orders

1. Contract Amount..... \$ _____
2. Executed Change Orders + \$ _____
3. Total Contract (1) + (2)..... \$ _____

B. Work Accomplished

4. Work performed on Contract Amount (1)..... \$ _____
5. Work performed on Change Orders (2)..... + \$ _____
6. Materials stored + \$ _____
7. Total Completed & Stored (4) + (5) + (6) \$ _____
8. Retainage 10% of Item (7), - \$ _____
9. Less Previous
Payments Made (or) Invoiced - \$ _____
10. Payment Amount Due this Application (7) — (8) — (10) \$ _____

(*) This application for payment shall be supported with the Contractor's pay request and supporting documentation.

[Developer certification and signatures on following page]

Disbursement Request Forms

(Page 2 of 2)

DEVELOPER'S CERTIFICATION

The undersigned DEVELOPER certifies that: (1) all items and amounts shown above are correct; (2) all Work performed and materials supplied fully comply with the terms and conditions of the Contract Documents; (3) all previous progress payments received from the CITY on account of Work done under the Contract referred to above have been applied to discharge in full all obligations of DEVELOPER incurred in connection with Work covered by prior Applications for Payment; (4) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to CITY at time of payment free and clear of all liens, claims, security interests and encumbrances; and (5) if applicable, the DEVELOPER has complied with all provisions of Part 6 of the Purchasing Code including the payment of a pro-rata share to Jacksonville Small Emerging Business (JSEB) of all payments previously received by the DEVELOPER.

Dated _____, 20__

Developer Signature

By: _____

Name Printed: _____

Notary Public

Date

Approvals

Construction Inspector

Project Manager

City Engineer

EXHIBIT G

Insurance Requirements

Developer shall require that the General Contractor (for this Exhibit G, the “**Contractor**”) 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 Contractor 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
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	\$1,000,000 Each Accident
	\$1,000,000 Disease Policy Limit
	\$1,000,000 Each Employee/Disease

This insurance shall cover the City and Developer (and, to the extent they are not otherwise insured, their 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.

Commercial General Liability	\$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.

Contractor 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 Contractor in the combination of the Commercial General Liability 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. The above limits may be provided through a combination of primary and excess policies.

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 \$5,000,000 per Claim
\$10,000,000 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 five (5) 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 Improvements. Named insured's shall be: Developer, 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 \$5,000,000 per Loss
\$5,000,000 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

\$5,000,000 per Loss
\$5,000,000 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

\$5,000,000 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, Developer 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, Developer and their respective members, officials, officers, directors, employees, representatives and agents.
- C. Contractors' Insurance Primary. The insurance provided by Contractor shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City, Developer 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, Developer 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 Contractors, Subcontractors, employees or agents

to the City, Developer or others. Any remedy provided to City, Developer or City of Jacksonville, Developer 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 Developer nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide insurance as required under this Agreement.
- H. Certificates of Insurance. Contractor shall provide the City and Developer 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 and to Developer Jacksonville Medical Center, Inc. (Attention: Director of Construction Services), 655 W. 8th Street, Jacksonville, Florida 32209..
- I. Notice. Contractor shall provide an endorsement issued by the insurer to provide the City and Developer 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, Contractor 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 Contractor shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Special Provisions: Prior to executing this Agreement, Contractor 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 Contractor.

Bonds and Other Performance Security. Contractor shall not perform or commence any construction services for the Improvements until the following performance bond and labor and material payment bond or other performance security have been delivered to City and Developer:

Bonds - In accordance with the provisions of Section 255.05, Florida Statutes, Design-Builder shall provide to City on forms furnished by the City, a 100% Performance Bond and a 100% Labor and Material Payment Bond for the Improvements performed under this Agreement, each in an amount not less than an amount at least equal to the amount of the Direct Costs for the construction of the 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 H

JSEB Reporting Form

Business:

Goal: \$

Contact: _____

Date: _____

Date Contract Awarded	Contractor Name	Ethnicity (1)	Scope of Work (2)	Contract Amount	Amount Paid to Date	% of Work Completed to Date
		(1) AA – African American	(2) Examples: Masonry			
		HANA – Hispanic, Asian, Native American	Painting			
		WBE – Women	Site Clearing			
		C - Caucasian	Electrical			

EXHIBIT I

Indemnification by Developer

Developer shall 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 Contractor that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Contractor's performance of the Agreement, operations, services or work performed hereunder; and

2. Environmental Liability, except as contemplated by Article 10 of this Agreement, 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

If Contractor exercises its rights under this Agreement, the Contractor 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 Contractor's agreement with Developer 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, arising out of or in connection with the gross negligence or willful misconduct of the Indemnified Parties.

**AMENDMENT ONE TO PUBLIC INFRASTRUCTURE CAPITAL
IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT
Marina Support Building Improvements**

THIS AMENDMENT ONE TO PUBLIC INFRASTRUCTURE CAPITAL IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT (“Amendment”) is made and entered into this _____ day of _____, 2025 (the “Effective Date”) between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (“City”), and **SHIPYARDS MARINA FLORIDA, LLC**, a Delaware limited liability company, f/k/a Shipyards Marina, LLC, a Delaware limited liability company (“Marina Developer”), by way of assignment from Shipyards Hotel Jacksonville, LLC, a Delaware limited liability company, f/k/a Shipyards Hotel, LLC, a Delaware limited liability company (“Shipyards Hotel”). Capitalized terms used herein and not otherwise defined shall have the meaning as set forth in the RDA, defined below.

RECITALS:

WHEREAS, City and Shipyards Hotel Jacksonville, LLC, a Delaware limited liability company (“Shipyards Hotel”) have previously entered into that certain Amended and Restated Redevelopment Agreement dated March 30, 2023 (the “RDA”), as assigned by that that certain Assignment and Assumption Agreement (Hotel Parcel) dated February 12, 2024 between Shipyards Hotel (as assignor) to Shipyards Trustee Jacksonville, LLC, a Delaware limited liability company, as Trustee under that certain Land Trust Agreement dated February 12, 2024 (as assignee) (the “Developer”), pursuant to which City will provide funding for Developer to construct on behalf of the City, among other things, certain Marina Support Building Improvements (as defined in the RDA) located generally on the Northbank of the St. Johns River in Jacksonville, Florida near Metropolitan Park, as more particularly described in the RDA.

WHEREAS, City and Shipyards Hotel have also entered into that certain Public Infrastructure Capital Improvements Costs Disbursement Agreement dated March 31, 2023 for the construction of certain Marina Support Building Improvements on the Northbank of the St. Johns River, as assigned by that certain Assignment and Assumption of Public Infrastructure Capital Improvements Costs Disbursement Agreement dated March 31, 2023 between Shipyards Hotel (as assignor) to Marina Developer (as assignee) (collectively, the “MSB CDA”).

WHEREAS, on even date herewith, City and Developer are entering into that certain Second Amended and Restated Redevelopment Agreement (the “Second Amended and Restated RDA”), and the parties wish to amend the Completion Date set forth in Exhibit E to the MSB CDA to align with the performance schedule in the Second Amended and Restated RDA. This Amendment amends the MSB CDA as set forth herein, and is effective as of the Effective Date hereof.

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 Marina Developer agree that the above

preliminary statements are true and correct, and the parties represent, warrant, covenant, and agree as follows:

1. Recitals. The foregoing recitals are true and correct and hereby incorporated herein by this reference.
2. Amendment to Exhibit E of MSB CDA. Exhibit E to the MSB CDA is hereby revised to change the Completion Date referenced therein from June 30, 2026 to August 30, 2026, with all other terms and conditions of the MSB CDA remaining unchanged.
3. Counterparts. This Amendment may be executed in counterparts, which when later combined shall constitute one and the same document as if originally executed together. Scanned or faxed signatures shall suffice as original signatures, and the parties may exchange executed counterparts by fax or email, which shall be binding for all purposes.

[Remainder of page left blank intentionally; signatures on following page.]

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

ATTEST:

CITY OF JACKSONVILLE

By: _____
James R. McCain, Jr.
Corporation Secretary

By: _____
Donna Deegan, Mayor

Form Approved:

Office of General Counsel

[signatures continue on following page]

Signed, sealed and delivered
in the presence of:

**SHIPYARDS MARINA
FLORIDA, LLC**, a Delaware limited
liability company

Name Printed: _____

By: _____
Name: Drew Frick
Its: Vice President

Name Printed: _____

GC-#1716730-v2-Amendment_One_to_Marina_Support_Building_Costs_Disbursement_Agreement_-_Shipyards_Marina_Jacksonville.DOCX

**AMENDMENT ONE TO PUBLIC INFRASTRUCTURE CAPITAL
IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT
Marina/Bulkhead/Pier Improvements**

THIS AMENDMENT ONE TO PUBLIC INFRASTRUCTURE CAPITAL IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT (“Amendment”) is made and entered into this _____ day of _____, 2025 (the “Effective Date”) between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (“City”), and **SHIPYARDS MARINA FLORIDA, LLC**, a Delaware limited liability company, f/k/a Shipyards Marina, LLC, a Delaware limited liability company (“Marina Developer”), by way of assignment from Shipyards Hotel Jacksonville, LLC, a Delaware limited liability company, f/k/a Shipyards Hotel, LLC, a Delaware limited liability company (“Shipyards Hotel”). Capitalized terms used herein and not otherwise defined shall have the meaning as set forth in the RDA, defined below.

RECITALS:

WHEREAS, City and Shipyards Hotel Jacksonville, LLC, a Delaware limited liability company (“Shipyards Hotel”) have previously entered into that certain Amended and Restated Redevelopment Agreement dated March 30, 2023 (the “RDA”), as assigned by that that certain Assignment and Assumption Agreement (Hotel Parcel) dated February 12, 2024 between Shipyards Hotel (as assignor) to Shipyards Trustee Jacksonville, LLC, a Delaware limited liability company, as Trustee under that certain Land Trust Agreement dated February 12, 2024 (as assignee) (the “Developer”), pursuant to which City will provide funding for Developer to construct on behalf of the City, among other things, certain Marina, Bulkhead and Pier Improvements (as defined in the RDA) located generally on the Northbank of the St. Johns River in Jacksonville, Florida near Metropolitan Park, as more particularly described in the RDA.

WHEREAS, City and Shipyards Hotel have also entered into that certain Public Infrastructure Capital Improvements Costs Disbursement Agreement dated March 31, 2023 for the construction of certain Marina Improvements, Bulkhead Improvements and Pier Improvements on the Northbank of the St. Johns River, as assigned by that certain Assignment and Assumption of Public Infrastructure Capital Improvements Costs Disbursement Agreement dated March 31, 2023 between Shipyards Hotel (as assignor) to Marina Developer (as assignee) (collectively, the “MBP CDA”).

WHEREAS, on even date herewith, City and Developer are entering into that certain Second Amended and Restated Redevelopment Agreement (the “Second Amended and Restated RDA”), and the parties wish to amend the Completion Date set forth in Exhibit E to the MBP CDA to align with the performance schedule in the Second Amended and Restated RDA. This Amendment amends the MBP CDA as set forth herein, and is effective as of the Effective Date hereof.

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 Marina Developer agree that the above preliminary statements are true and correct, and the parties represent, warrant, covenant, and agree as follows:

1. Recitals. The foregoing recitals are true and correct and hereby incorporated herein by this reference.

2. Amendment to Exhibit E of MBP CDA. Exhibit E to the MBP CDA is hereby revised to change the Substantial for the Marina Improvements, Bulkhead Improvements, and Pier Improvements referenced therein from thirty-six (36) months from no later the Marina Closure Date to no later than August 30, 2026, with all other terms and conditions of the MSB CDA remaining unchanged.

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

[Remainder of page left blank intentionally; signatures on following page.]

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

ATTEST:

CITY OF JACKSONVILLE

By: _____
James R. McCain, Jr.
Corporation Secretary

By: _____
Donna Deegan, Mayor

Form Approved:

Office of General Counsel

[signatures continue on following page]

Signed, sealed and delivered
in the presence of:

**SHIPYARDS MARINA
FLORIDA, LLC**, a Delaware limited
liability company

Name Printed: _____

By: _____
Name: Drew Frick
Its: Vice President

Name Printed: _____

GC-#1716731-v2-Iguana_-Amendment_One_to_Marina_Pier_Bulkhead_Improvements_Costs_Disbursement_Agreement_-
_Shipyards_Hotel_Jacksonville.DOCX

SECOND AMENDMENT TO TOWER CRANE LICENSE AGREEMENT

This SECOND AMENDMENT TO TOWER CRANE LICENSE AGREEMENT is made this ____ day of _____, 2025 by and among **SHIPYARDS TRUSTEE JACKSONVILLE, LLC**, a Delaware limited liability company, as trustee under the provisions of a certain Land Trust Agreement dated February 12, 2024 (the “**Hotel Developer**”) and **SHIPYARDS OFFICE, LLC**, a Delaware limited liability company (the “**Office Developer**”) and together, jointly and severally with the Hotel Developer, “**Developer**”), and the **CITY OF JACKSONVILLE**, a consolidated political subdivision and municipal corporation existing under the laws of Florida (“**Owner**”).

RECITALS:

A. Hotel Developer, Office Developer and Owner entered into that certain Tower Crane License Agreement dated as of March 31, 2023, as amended by that certain First Amendment to Tower Crane License Agreement dated February 9, 2024, as partially assigned by Shipyards Hotel Jacksonville, LLC a Delaware limited liability company, f/k/a Shipyards Hotel, LLC, a Delaware limited liability company to Hotel Developer by that certain Partial Assignment and Assumption of Tower Crane License dated February 12, 2024 (as the same has been or may be amended, supplemented and/or restated and in effect from time to time, collectively, the “**Agreement**”). Capitalized terms not defined in this Amendment shall have the meanings set forth in the Agreement.

B. Paragraph 10 of the Agreement provides that the Agreement may be amended by all parties to the Agreement, such parties being Hotel Developer, Office Developer and Owner.

C. The parties now wish to amend the terms of the Agreement subject to the conditions of this Amendment.

NOW, THEREFORE, for and in consideration of the foregoing Recitals and the agreements contained herein, Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Hotel Developer, for itself and its respective successors and assigns, Office Developer, for itself and its respective successors and assigns, and Owner, for itself and its respective successors and assigns, hereby amend the Agreement as follows:

1. Recitals. The Agreement and the foregoing Recitals are incorporated herein by this reference.

2. License. Section 1 of the Agreement is hereby amended to revise the June 30, 2026 date in the last sentence therein to June 30, 2027.

3. Miscellaneous. Except as specifically amended hereby, the Agreement shall remain in full force and effect as covenants and restrictions running with the land. This Amendment shall be binding on the parties hereto and their respective successors and assigns. This Amendment shall also inure to the benefit of the parties, and their respective successors and

assigns. This Amendment may be executed in two or more counterparts, each of which shall be an original and all of which when taken together shall constitute one and the same instrument.

[Signatures Begin On The Next Page]

IN WITNESS WHEREOF, the undersigned have, through their respective duly authorized officers, signed and sealed this Amendment effective as of the date first above written.

Signed, sealed and delivered in our presence **Developer:**
as witnesses:

Print Name: _____

SHIPYARDS TRUSTEE JACKSONVILLE, LLC, a Delaware limited liability company, not individually but solely as trustee under the provisions of a certain Land Trust Agreement dated February 12, 2024 and known as the Shipyards Land Trust, and no personal judgment or decree shall ever be sought or obtained against the trustee by reason of this instrument

By: Iguana Investments Florida, LLC, a Delaware limited liability company, sole member and manager

By: _____

Name: _____

Title: _____

Print Name: _____

SHIPYARDS OFFICE, LLC, a Delaware limited liability company

By: Iguana Investments Florida, LLC, a Delaware limited liability company, sole member and manager

By: _____

Name: _____

Title: _____

[signatures continue on following page]

Owner:

CITY OF JACKSONVILLE

By: _____

Name: Donna Deegan, Mayor

ATTEST:

James R. McCain, Jr.
Corporation Secretary

Form Approved:

Office of General Counsel

GC-#1712498-v3-Iguana_-_Second_Amendment_to_Tower_Crane_License_Agreement.docx

GUARANTOR CONSENT AND REAFFIRMATION OF GUARANTY

_____, 2025

Reference is made to (1) that certain Second Amended and Restated Redevelopment Agreement dated _____, 2025 by and among **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 **SHIPYARDS TRUSTEE JACKSONVILLE, LLC**, a Delaware limited liability company, as trustee under the provisions of a certain Land Trust Agreement dated February 12, 2024, successor by assignment to Shipyards Hotel Jacksonville, LLC, a Delaware limited liability company, f/k/a Shipyards Hotel, LLC, a Delaware limited liability company (“Shipyards Trustee”) (the “Second Amended and Restated Redevelopment Agreement”) and (2) that certain Guaranty of Completion dated June 9, 2022 made by **K2TR FAMILY HOLDINGS 2, CORP.**, a South Dakota corporation, (“Guarantor”) to and for the benefit of the City and the DIA, as previously reaffirmed and modified by that certain Guarantor Modification, Consent and Reaffirmation of Guaranty dated March 31, 2023 made by Guarantor to and for the benefit of the City and the DIA, and as further reaffirmed and modified by that certain Guarantor Consent and Reaffirmation of Guaranty dated February 12, 2024 made by Guarantor to and for the benefit of the City and the DIA (collectively, the “Guaranty”). All capitalized terms in this Guarantor Consent and Reaffirmation of Guaranty not otherwise defined herein shall have the meanings set forth in the Amended and Restated Redevelopment Agreement.

Guarantor hereby represents and warrants to the City and the DIA that it is an affiliate of Shipyards Trustee (by reason of common control or ownership) and is financially interested in Shipyards Trustee and that it will materially benefit both directly and indirectly from the Second Amended and Restated Redevelopment Agreement.

Guarantor hereby consents to the execution, delivery and performance of the Second Amended and Restated Redevelopment Agreement and hereby acknowledges and agrees that each reference to the Agreement in the Guaranty shall hereafter be deemed to be a reference to the Second Amended and Restated Redevelopment Agreement.

Guarantor hereby acknowledges and agrees that, after giving effect to the Second Amended and Restated Redevelopment Agreement, all of its obligations and liabilities under the Guaranty as such obligations and liabilities have been amended by the Second Amended and Restated Redevelopment Agreement and this Guarantor Consent and Reaffirmation of Guaranty, are reaffirmed and remain in full force and effect.

Guarantor hereby represents and warrants to the City and the DIA that each representation and warranty of Guarantor contained in the Guaranty is true and correct as of the date hereof and will be true and correct after giving effect to the Second Amended and Restated Redevelopment Agreement. Additionally, Guarantor hereby represents and warrants to the City and the DIA that nothing exists that would impair the ability of Guarantor to perform its obligations under the Guaranty after giving effect to the Second Amended and Restated Redevelopment Agreement.

This Guarantor Consent and Reaffirmation of Guaranty is given to induce the DIA to execute and deliver the Second Amended and Restated Redevelopment Agreement.

This Guarantor Consent and Reaffirmation of Guaranty may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same instrument. A facsimile or electronically delivered (such as via pdf) signature shall be deemed an original signature.

IN WITNESS WHEREOF, the Guarantor, City and DIA have duly executed this Guarantor Consent and Reaffirmation of Guaranty as of the date first set forth above.

GUARANTOR:

K2TR FAMILY HOLDINGS 2, CORP., a South Dakota corporation

By: _____
Name: _____
Its: _____

Modification Agreed to by:

Form Approved:

DOWNTOWN INVESTMENT AUTHORITY, a community redevelopment agency on behalf of the City of Jacksonville

Office of General Counsel

By: _____
Name: _____
Its: Chief Executive Officer

ATTEST:

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

By: _____
James R. McCain, Jr.
Corporation Secretary

By: _____
Name: Donna Deegan
Its: Mayor

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

NON-EXCLUSIVE DRAINAGE EASEMENT AGREEMENT
(Office)

This NON-EXCLUSIVE DRAINAGE EASEMENT AGREEMENT (“Easement Agreement”) is made as of the ____ day of _____, 2025, 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, **SHIPYARDS OFFICE, LLC**, a Delaware limited liability company (“Grantee”), whose address is 1 EverBank Stadium Drive, Jacksonville, Florida 32202.

RECITALS:

A. Grantor owns certain property described and depicted on **Exhibit A** attached hereto and made a part hereof (the “Easement Area”).

B. Grantee owns certain property located in Duval County, Florida, commonly known as 1 Shipyards Place, Jacksonville, Florida 32202, and more particularly described and depicted on **Exhibit B** attached hereto (the “Benefited Property”).

C. Grantee has agreed to construct, and is constructing, certain improvements consisting in part of a six-floor Class A office building, as more particularly described as the Office Building Improvements in the Redevelopment Agreement between Grantor and Grantee dated March 30, 2023 (the “Agreement”).

D. Pursuant to that certain Non-Exclusive Drainage Easement Agreement by and between Grantor, as grantor, Shipyards Trustee Jacksonville, LLC, a Delaware limited liability company (“Shipyards Trustee”), as grantee, and Shipyards Shared Facilities Jacksonville, LLC, a Delaware limited liability company (“O&M Entity”) to be recorded contemporaneously with this Easement Agreement (the “Hotel and Residences Easement Agreement”), Shipyards Trustee has constructed certain drainage pipes, drains, inlets, manholes, separators and related improvements for drainage of surface water and stormwater from the Benefited Property and that certain property located to the east of the Easement Area and described as the “Benefited Property” in the Hotel and Residences Easement Agreement (the “Hotel and Residences Property”) in, on, along, through, across or under the Easement Area, portions of which drainage improvements serve solely the Hotel and Residences Property and improvements located or to be located thereon (the “Hotel Drainage Improvements”) and other portions of which drainage improvements

serve both the Hotel and Residences Property and the improvements located or to be located thereon and the Benefited Property and Office Building Improvements (the “Shared Drainage Improvements”).

E. In connection with the construction of the Office Building Improvements, Grantee has constructed certain drainage pipes, drains, inlets, manholes, separators and related improvements for drainage of surface water and stormwater from the Benefited Property in, on, along, through, across or under the Easement Area, which drainage improvements serve solely the Benefited Property and the Office Building Improvements (the “Office Drainage Improvements”).

F. The plans attached hereto as **Exhibit “A-1”** (the “Plans”) depict the Hotel Drainage Improvements, the Shared Drainage Improvements, and the Office Drainage Improvements (collectively, the “Drainage Improvements”).

G. The Drainage Improvements also serve certain property and improvements owned by Grantor..

H. Grantor and Grantee wish to establish certain easements for the maintenance and use of the Drainage Improvements within the Easement Area in accordance with the terms and provisions of this Agreement.

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. **Recitals; Exhibits.** The foregoing recitals and the exhibits attached hereto are incorporated herein and made a part hereof by this reference.

2. **Grant of Easement Rights.** Grantor hereby bargains, sells, grants and conveys unto to Grantee a perpetual, non-exclusive easement over, under, upon, and across the Easement Area for the purposes of installing, constructing, maintaining, accessing, repairing, replacing, using and operating the Shared Drainage Improvements and Office Drainage Improvements located within the Easement Area and the drainage of surface water and stormwater through the Shared Drainage Improvements and Office Drainage Improvements located within the Easement Area, together with the right of ingress and egress in and over any property owned by Grantor and adjacent to the Easement Area for doing anything necessary or useful or convenient for the enjoyment of this easement. Such easements shall be for the benefit of Grantee and Grantee’s successors and assigns, representatives, employees, agents, contractors, subcontractors, tenants, subtenants, and mortgagees. This Agreement encumbers the Easement Area and is appurtenant to and benefits Benefited Property, and each parcel of property now or hereafter located therein, and is intended to run with the title thereto.

3. **Maintenance.** The Office Drainage Improvements constructed or installed by Grantee within the Easement Area shall be maintained, repaired and replaced so the

same remains in good condition and repair by Grantee at Grantee's sole cost and expense in accordance with all applicable laws, ordinances, codes, rules, and regulations. Grantee shall provide not less than five (5) business days' prior written notice to Grantor prior to performing any capital maintenance or repairs to the Office Drainage Improvements within the Easement Area except in the case of an emergency in which case no prior written notice shall be required, but Grantee shall provide prompt notice of the same. Notwithstanding anything contained in this Easement Agreement, any damage to the Office Drainage Improvements caused by the negligence of Grantor, its officers, agents, servants, employees or contractors shall be repaired by Grantor at its sole cost and expense. For the avoidance of doubt, the Hotel and Residences Easement Agreement obligates the O&M Entity to maintain the Shared Drainage Improvements.

If Grantee 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 Grantor specifying the default and continuously proceed with reasonable due diligence to cure such default, then Grantor may at any time thereafter cure such default. In such event, Grantor shall provide an invoice to Grantee for such costs and Grantee shall pay the invoice amount to Grantor within 30 days after receipt of such invoice. If the Grantee fails to timely pay such invoice amount, interest will accrue on the unpaid amount at the lesser of (i) eighteen percent (18%) per annum, or (ii) the highest lawful rate from the invoice date until the date paid. Grantor shall be entitled to pre-judgment interest on all amounts owed to Grantor hereunder.

If O&M Entity shall default in the performance of its maintenance obligations of the Shared Drainage Improvements under the Hotel and Residences Easement Agreement, and shall not commence to cure such default within thirty (30) days after notice in writing delivered by Grantee to O&M and Grantor specifying the default and continuously proceed with reasonable due diligence to cure such default, then Grantee may at any time thereafter cure such default. Grantee and O&M Entity may enter into an unrecorded agreement setting forth the terms and conditions of the foregoing self-help rights and other terms and conditions related to Grantee's and O&M Entity's rights and obligations related to the Shared Drainage Improvements.

4. **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 (provided that such reserved rights shall not be exercised in any manner that would diminish or materially interfere with Grantee's rights under this Easement Agreement) to (a) use, and to grant to others the right to use the Easement Area for any lawful purpose or use, (b) grant additional easements and licenses to others over, across, and under the Easement Area.

5. **Restrictions on Use of Easement Area.** A portion of the Easement Area is, and Grantee's rights hereunder to such portion of the Easement Area are, expressly subject to the terms and conditions of that certain Grant of Easement between the City of Jacksonville and JEA, dated May 15, 2003 and recorded in the Official Records of Duval County, Florida at Book 11109, Page 1942, as affected by that certain Use and Hold

Harmless Agreement by and between Shipyards Trustee and JEA, dated February 28, 2024 and recorded in the Official Records of Duval County, Florida at Book 20969, Page 1869. 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. Grantee further acknowledges that there are existing utility lines within the Easement Area which cannot be adversely impacted by the use of the Easement Area, including without limitation the use of the Office Drainage Improvements and Shared Drainage Improvements. Notwithstanding anything in this Easement Agreement to the contrary, Grantee's rights hereunder shall be subject to all applicable laws, ordinances, codes, rules, and regulations. Without limiting the foregoing, Grantee expressly acknowledges and agrees that the Easement Area has been designated as a River View and Access Corridor as defined in Chapter 656, Part 3, Subpart H of the Jacksonville Ordinance Code.

6. **Relocation.** Notwithstanding the foregoing, if necessitated by Grantor or by work performed by the JEA, Grantor shall have the right to require reconfiguration or relocation of the Office Drainage Improvements on a permanent or temporary basis within the Easement Area or relocation of the Easement Area, or any part or parts thereof, at Grantee's sole cost and expense; provided, however, that any relocated Easement Area shall continue to provide reasonably equivalent surface water and stormwater drainage as provided by the Office Drainage Improvements in the prior Easement Area location. In conjunction with any such relocation, Grantor shall provide reasonable accommodation for Grantee to restore Office Drainage Improvements to the same or similar condition as existed immediately prior to the commencement of such work, reasonable wear and tear excepted. Except in the case of an emergency, Grantor shall provide Grantee with at least one hundred eighty (180) days' prior written notice of Grantee's obligation to temporarily or permanently relocate the Office Drainage Improvements and/or Easement Area, and the opportunity to provide input as to the new location. Grantee shall comply with the requirements of Section 711.335, *Ordinance Code* (with the exception of the 180 day prior written notice requirement authorized by this section), in connection with any relocation under this section.

7. **Indemnification.** Grantee shall indemnify, defend and hold harmless Grantor, its members, officers, agents, servants, employees, successors and assigns (the "**Indemnified Parties**") (i) 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, to the extent caused by Grantee's negligence or willful misconduct in the construction, operation or maintenance of the Office Drainage Improvements located on the Easement Area, and (ii) 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, to the extent caused by Grantee or Grantee's agents, contractors, subtenants or employees, and 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 misconduct of the Indemnified Parties. This indemnity does not alter, amend or expend the parameters of Section 768.28, Florida Statutes. If Grantee contracts with contractors or subcontractors in any way related to the Easement, Grantee shall require said contractors and subcontractors to comply with the indemnity requirements attached hereto as **Exhibit C**. This paragraph shall survive the expiration or earlier termination of this Easement Agreement.

8. **Insurance.** During the term of this Agreement, Grantee shall comply with the insurance requirements attached hereto as **Exhibit D**. If Grantee contracts with contractors or subcontractors in any way related to this Agreement, Grantee shall require said contractors and subcontractors to comply with the insurance requirements attached hereto as **Exhibit D**.

9. **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.

To Grantor: City of Jacksonville
C/O Downtown Investment Authority
117 W. Duval Street, Suite 310
Jacksonville, Florida 32202
Attn: CEO

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

To Grantee: Shipyards Office, LLC
c/o/ Iguana Investments, LLC
1 EverBank Stadium Drive
Jacksonville, Florida 32202
Attn: General Counsel

With a copy to: Driver, McAfee, Hawthorne & Diebenow, PLLC
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

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. **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.

11. **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

12. **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 Easement Area and 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.

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.

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

WITNESSES:

Signed, sealed and delivered
in the presence of:

Print Name: _____

Address: _____

Print Name: _____

Address: _____

GRANTOR:

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

By: _____
Donna Deegan, 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 _____, 2025, by Donna Deegan, as Mayor, and James R. McCain, Jr., as Corporation Secretary, 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.

(SEAL)

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

FORM APPROVED:

Office of the General Counsel

GC-#1701118-v10-Iguana - Shipyards Office - Riverwalk Drainage Easement (Office).docx

WITNESSES:

Signed, sealed and delivered
in the presence of:

Print Name: _____
Address: _____

Print Name: _____
Address: _____

GRANTEE:

SHIPYARDS OFFICE, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2025, by _____, the _____, of **SHIPYARDS OFFICE, LLC**, a Delaware limited liability company, on behalf of the company, who ☐ is personally known to me or ☐ has produced _____ as identification.

(SEAL)

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

CONSENT AND JOINDER

The undersigned, FIRST HORIZON BANK, a Tennessee banking corporation ("Mortgagee"), is the owner and holder of that certain Mortgage, Assignment of Rents, Security Agreement and Financing Statement dated February 12, 2024, executed by Shipyards Office, LLC, a Delaware limited liability company ("Mortgagor"), and recorded in Official Records Book 20949, Page 1161 of the public records of Duval County, Florida (the "Mortgage"). Mortgagee hereby consents to and joins in the foregoing Non-Exclusive Drainage Easement Agreement between and Mortgagor and City of Jacksonville (the "Agreement") and subordinates the Mortgage encumbering the Benefited Property to the Agreement, including, without limitation, any easements described in the Agreement.

IN WITNESS WHEREOF, this Consent and Joinder is executed by the undersigned this _____ day of _____, 2025.

Signed, sealed, and delivered
in the presence of:

FIRST HORIZON BANK, a Tennessee
banking corporation

Print Name: _____
Address: _____

By: _____
Name: _____
Title: _____

Print Name: _____
Address: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2025, by _____, as _____ of FIRST HORIZON BANK, a Tennessee banking corporation, on behalf of the bank. Such person ☐ is personally known to me or ☐ has produced _____ as identification.

Signature of Notary Public

Print Name: _____
Notary Public, State and County aforesaid
Commission No.: _____
My Commission Expires: _____

EXHIBIT A

Easement Area



SURVEYING & MAPPING

14775 Old St. Augustine Road, Jacksonville, Florida 32258

etmnc.com | 904.642.8550

Revised May 20, 2025
April 30, 2025

Work Order No. 23-348.02
File No. 129G-11.02A

Drainage Easement 1

A portion of Section 45 of the E. Hudnall Grant, Township 2 South, Range 27 East, Duval County, Florida, being a portion of those lands described and recorded in Official Records Volume 5739, page 1126, of the current Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the Southwesterly corner of those lands described and recorded in Official Records Book 20949, page 1061, of said current Public Records, said corner lying on the Easterly line of that certain Water Transmission Easement, as described and recorded in Official Records Book 11109, page 1942, of said current Public Records; thence South 17°37'02" West, along said Easterly line, 14.84 feet to the Point of Beginning.

From said Point of Beginning, thence North 29°05'40" West, departing said Easterly line of Water Transmission Easement, 10.49 feet; thence North 74°27'10" West, 161.60 feet; thence South 15°56'57" West, 42.52 feet to a point lying on the Northerly line of that certain Sovereignty Submerged Lands Easement, as described and recorded in Official Records Book 17606, page 216, of said current Public Records; thence North 74°24'56" West, along said Northerly line, 25.00 feet to its intersection with the Southerly prolongation of the Easterly line of that certain Sewer Utility Easement, as described and recorded in Official Records Book 17483, page 2143, of said current Public Records; thence North 15°56'57" East, along said Southerly prolongation and said Easterly line, 67.51 feet; thence South 74°27'10" East, departing said Easterly line, 164.95 feet to a point lying on the Westerly line of said Water Transmission Easement; thence North 17°37'02" East, along said Westerly line and along the Easterly line of Office Building Parcel, as described and recorded in Official Records Book 20632, page 138, of said current Public Records, 377.48 feet; thence South 72°22'58" East, departing last said lines, 30.00 feet to a point lying on the Westerly line of said Official Records Book 20949, page 1061, said line also being said Easterly line of Water Transmission Easement; thence South 17°37'02" West, along last said lines and along the Southerly prolongation of said Westerly line, 408.88 feet to the Point of Beginning.

Containing 17,265 square feet, more or less.

— Jacksonville | Orlando | Ormond Beach —

A PORTION OF SECTION 45 OF THE E. HUDNALL GRANT, TOWNSHIP 2 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA, BEING A PORTION OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS VOLUME 5739, PAGE 1126, OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED IN SEPARATE ATTACHMENT.



- 1) THIS IS NOT A SURVEY.
- 2) BEARINGS BASED ON THE WESTERLY LINE OF O.R.B. 20949, PG. 1061 AS BEING SOUTH 17°37'02" WEST.

REVISED MAY 20, 2025 TO AMEND
MAP AND LEGAL DESCRIPTION.
REVISED MAY 5, 2025 TO AMEND
MAP AND LEGAL DESCRIPTION.

14775 Old St. Augustine Rd.
Jacksonville, Florida 32268
Certificate of Authorization

Trusted
Advisors,
Creating
Community.

(904) 642-8550
www.stmimo.com
U.S. 3826

THIS ITEM HAS BEEN ELECTRONICALLY SIGNED AND SEALED.
USING A DIGITAL SIGNATURE. PRINTED COPIES OF THIS
DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE
SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.



Digitally signed by
Gilmore C Colyer III
Date: May 28, 2025

SCALE: 1"=60'
DATE: APRIL 30, 2025

G. C. COLYER III
PROFESSIONAL SURVEYOR AND MAPPER
STATE of FLORIDA LS No. 6963

EXHIBIT A-1

The Plans

EXHIBIT B

Benefited Property aka Office Building Parcel

A portion of Section 45 of the E. Hudnall Grant, Township 2 South, Range 27 East, Duval County, Florida, being a portion of those lands described and recorded in Official Records Volume 5739, page 1126, of the current Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the intersection of the Easterly right of way line of A. Philip Randolph Boulevard (formerly Florida Avenue), a variable width right of way as presently established, with the Northerly right of way line of Gator Bowl Boulevard (Bay Street Relocation), an 82 foot right of way as presently established as depicted on map prepared by B.H.R., Inc. (formerly North East Florida Surveyors), dated April 23, 2003, Map No. E-238A; thence Southeasterly along said Northerly right of way line the following 4 courses: Course 1, thence Southeasterly along the arc of a curve concave Northeasterly having a radius of 40.00 feet, through a central angle of $89^{\circ}34'11''$, an arc length of 62.53 feet to a point of reverse curvature, said arc being subtended by a chord bearing and distance of South $28^{\circ}49'59''$ East, 56.36 feet; Course 2, thence Southeasterly along the arc of a curve concave Southwesterly having a radius of 544.50 feet, through a central angle of $27^{\circ}23'25''$, an arc length of 260.30 feet to a point of reverse curvature, said arc being subtended by a chord bearing and distance of South $59^{\circ}55'22''$ East, 257.83 feet; thence Southeasterly along the arc of a curve concave Northeasterly having a radius of 455.50 feet, through a central angle of $26^{\circ}06'09''$, an arc length of 207.51 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $59^{\circ}16'44''$ East, 205.72 feet; Course 4, thence South $72^{\circ}19'48''$ East, 139.11 feet; thence South $17^{\circ}40'12''$ West, departing said Northerly right of way line, 82.00 feet to a point lying on the Southerly right of way line of said Gator Bowl Boulevard; thence South $72^{\circ}19'48''$ East, along said Southerly right of way line, 327.16 feet to its intersection with the Westerly line of said Official Records Volume 5739, page 1126; thence South $15^{\circ}56'02''$ West, departing said Southerly right of way line and along said Westerly line, 45.53 feet; thence Easterly departing said Westerly line of Official Records Volume 5739, page 1126, and along the arc of a non-tangent curve concave Southerly having a radius of 3038.88 feet, through a central angle of $01^{\circ}28'07''$, an arc length of 77.89 feet to the Point of Beginning, said arc being subtended by a chord bearing and distance of South $76^{\circ}02'22''$ East, 77.89 feet.

From said Point of Beginning, thence along the arc of a curve concave Southerly having a radius of 3038.88 feet, through a central angle of $02^{\circ}19'04''$, an arc length of 122.93 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $74^{\circ}08'46''$ East, 122.92 feet; thence South $72^{\circ}59'14''$ East, 56.39 feet to a point lying on the Westerly line of that certain Water Transmission Easement as described and recorded in Official Records Book 11109, page 1942, of said current Public Records; thence South $17^{\circ}37'02''$ West, along said Westerly line, 260.00 feet; thence North

72°59'14" West, departing said Westerly line, 49.02 feet to the point of curvature of a curve concave Southerly having a radius of 3038.88 feet; thence Westerly along the arc of said curve, through a central angle of 02°19'03", an arc length of 122.92 feet to a point lying on the Easterly line of that certain Sewer Utility Easement, as described and recorded in Official Records Book 17843, page 2143, of said current Public Records, said arc being subtended by a chord bearing and distance of North 74°08'46" West, 122.91 feet; thence North 15°59'29" East, along said Easterly line and along a non-tangent line, 260.03 feet to the Point of Beginning.

Containing 1.05 acres, more or less.

The Benefited Property aka the Office Property is depicted on the survey map below and labeled "Proposed Office Building Parcel"

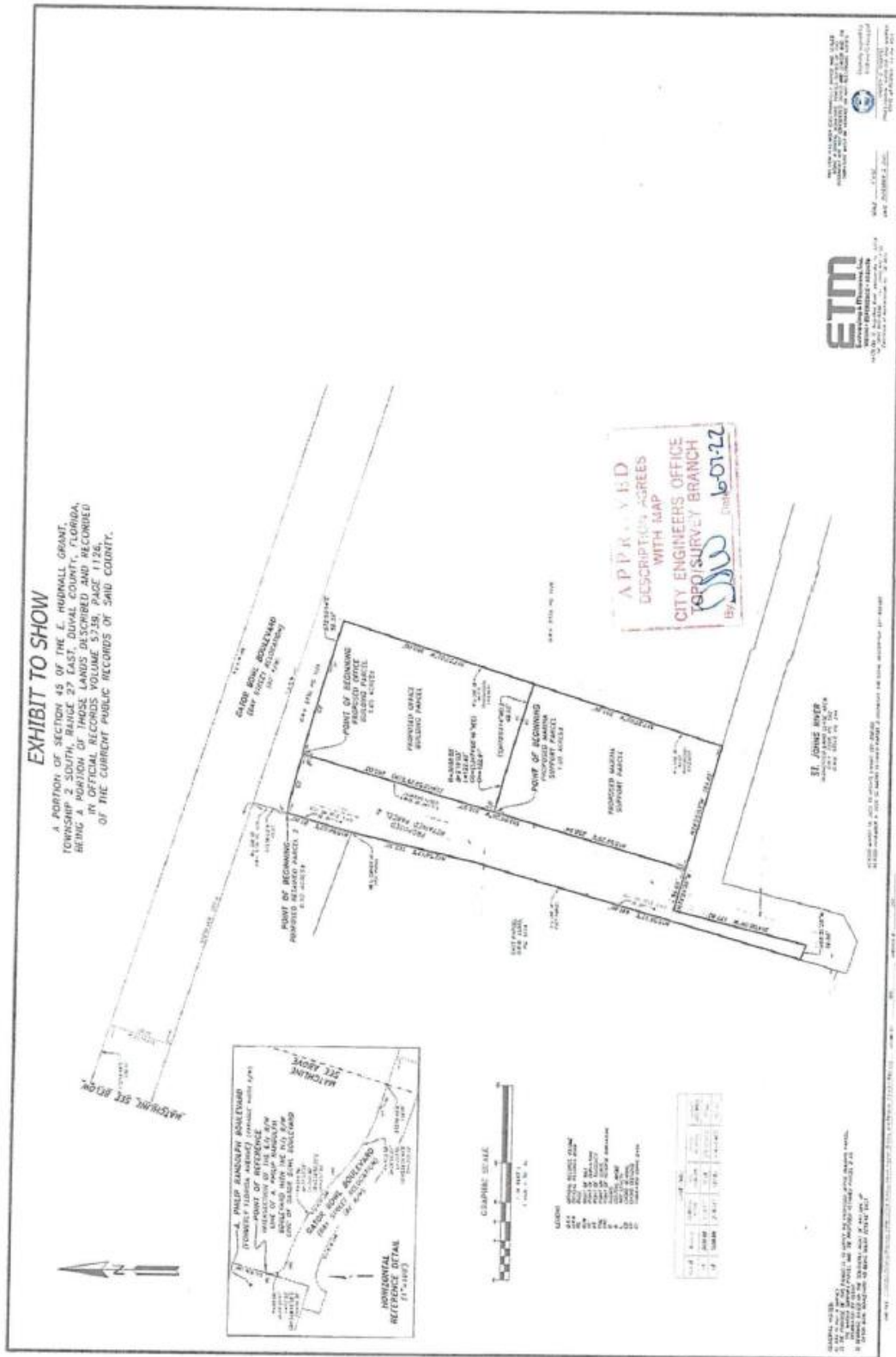


EXHIBIT C

INDEMNIFICATION

Grantee's contractors and subcontractors (the "**Indemnifying Party/Parties**") shall 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 Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Easement Agreement, operations, services or work performed hereunder; and

2. Environmental Liability, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages caused by or arising out of the acts or omissions of Grantee or its contractors, invitees, licensees, agents, or employees in connection with this Agreement; and

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 D

INSURANCE REQUIREMENTS

Without limiting its liability under this Agreement, Grantee 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 Grantee 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
Worker's Compensation Employer's Liability	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 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.

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

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. Grantor and Grantee agree that Grantee may, in lieu of a commercial general liability policy, obtain and maintain a specialized marina insurance liability policy that contains minimum policy limits as set forth above.

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

Grantee shall maintain Automobile Liability coverage only if Grantee operates any automobiles in connection with 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).

Professional Liability \$1,000,000 per Claim and Aggregate
(Including Medical Malpractice when applicable)

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 three year reporting option beyond the annual expiration date of the policy.

Builders Risk/ Installation Floater %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/Installation Floater 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 project. Named insured's shall be: CONTRACTOR, the CITY, and respective members, officials, employees and agents, the ENGINEER, and the PROGRAM MANAGEMENT FIRM(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.

Umbrella Liability

\$5,000,000 Each Occurrence Agg.

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

Additional Insurance Provisions

- A. Certificates of Insurance. Grantee shall deliver the Grantor Certificates of Insurance that shows the corresponding **City Contract or Bid Number** in the Description, **Additional Insureds, Waivers of Subrogation** and **Primary & Non-Contributory statement** as provided below. 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.
- B. 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.
- C. 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.
- 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. Grantee's Insurance Primary. 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 Grantor or any Grantor 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 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 Agreement.
- G. Grantee's Insurance Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Grantee or its Contractors, Subcontractors, employees or agents to the Grantor or others. Any remedy provided to Grantor or Grantor'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 Grantor nor failure to disapprove the insurance furnished by Grantee shall relieve Grantee of Grantee's full responsibility to provide insurance as required under this Agreement.
- I. Notice. The Grantee shall provide an endorsement issued by the insurer to provide the Grantor

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, 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 Grantee 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, grant recipient or service provider and its/their accompanying exposures and liabilities, the City/Risk Management may require changes to their insurance program, this which may include policies, policy limits, endorsements, deductibles, exclusions; etc.
- L. Special Provision: Prior to executing this Agreement, Grantee shall present this Agreement and insurance requirements attachments to its Insurance Agent Affirming: 1) That the Agent has Personally reviewed the insurance requirements of the Contract 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 Grantee.

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

NON-EXCLUSIVE DRAINAGE EASEMENT AGREEMENT
(Hotel and Residences)

This NON-EXCLUSIVE DRAINAGE EASEMENT AGREEMENT (“Easement Agreement”) is made as of the ____ day of _____, 2025, 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, **SHIPYARDS TRUSTEE JACKSONVILLE, LLC**, a Delaware limited liability company, as trustee under the provisions of a certain Land Trust Agreement dated February 12, 2024 (the “Trust Agreement”), and not individually (“Grantee”), whose address is 1 EverBank Stadium Drive, Jacksonville, Florida 32202, **SHIPYARDS SHARED FACILITIES JACKSONVILLE, LLC**, a Delaware limited liability company, (“O&M Entity”), whose address is 1 EverBank Stadium Drive, Jacksonville, Florida 32202, and **SHIPYARDS HOTEL JACKSONVILLE, LLC**, a Delaware limited liability company, (“Shipyards Hotel”), whose address is 1 EverBank Stadium Drive, Jacksonville, Florida 32202.

RECITALS:

A. Grantor owns certain property described and depicted on **Exhibit A** attached hereto and made a part hereof (the “Easement Area”).

B. Pursuant to the Trust Agreement, Grantee is the owner of legal title to certain property located in Duval County, Florida, commonly known as 1406 E. Bay St., Jacksonville, Florida 32202, and more particularly described and depicted on **Exhibit B** attached hereto (the “Benefited Property”) and has agreed to hold the title to the Benefited Property as trustee under the Florida Land Trust Act, and to act with respect to the Benefited Property as directed under the Trust Agreement.

C. The beneficiaries under the Trust Agreement are O&M Entity, Shipyards Hotel, and Shipyards Residences Jacksonville, LLC, a Delaware limited liability company (“Shipyards Residences”). As used herein, “Beneficiaries” shall mean collectively, O&M Entity, Shipyards Hotel and Shipyards Residences.

D. Grantee has agreed to construct, and is constructing, certain improvements consisting in part of (i) a luxury Four Seasons hotel with no fewer than 170 rooms (the “Hotel”), (ii) approximately 26 Class A condominium units within the same building as

the Hotel (the “Condominium”), and (iii) certain common areas, elements, facilities and utility systems benefiting and serving both the Hotel and the Condominium (the “Shared Facilities”), all as more particularly described as the Hotel Improvements in the Amended and Restated Redevelopment Agreement between Grantor and Shipyards Hotel dated March 30, 2023 and assigned by Shipyards Hotel to Grantee pursuant to that certain Assignment and Assumption Agreement (Hotel Parcel) dated February 12, 2024 (as assigned, the “Agreement”).

E. In connection with the construction of the Hotel, Condominium and Shared Facilities, Grantee has constructed certain drainage improvements inclusive of drainage pipes, drains, inlets, manholes, separators and related improvements for drainage of surface water and stormwater from the Benefited Property in, on, along, through, across or under the Easement Area, portions of which serve solely the Benefited Property, the Hotel, the Condominium and the Shared Facilities (the “Hotel Drainage Improvements”) and other portions of which serve the Benefited Property, the Hotel, the Condominium, the Shared Facilities, and that certain property located to the west of the Easement Area and depicted as “Office Building Parcel” on the map of “Easement Parcel 1” attached hereto in **Exhibit “A”** (the “Office Property”) and improvements located or to be located thereon (the “Shared Drainage Improvements”).

F. As of the date hereof, Grantor is entering into that certain Non-Exclusive Drainage Easement Agreement by and between Grantor, as grantor, and Shipyards Office, LLC, a Delaware limited liability company (“Shipyards Office”), as grantee, to be recorded contemporaneously with this Easement Agreement (the “Office Easement Agreement”). Pursuant to the Office Easement Agreement, Shipyards Office has constructed and will maintain certain drainage pipes, drains, inlets, manholes, separators and related improvements for drainage of surface water and stormwater located in the Easement Area that serve solely the Office Property (the “Office Drainage Improvements”).

G. The plans attached hereto as **Exhibit “A-1”** (the “Plans”) depict the Hotel Drainage Improvements, the Shared Drainage Improvements, and the Office Drainage Improvements (collectively, the “Drainage Improvements”). The Drainage Improvements also serve certain property and improvements owned by Grantor.

H. Grantor and Grantee wish to establish certain easements for the construction, maintenance, and use of the Hotel Drainage Improvements and Shared Drainage Improvements within the Easement Area in accordance with the terms and provisions of this Agreement.

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. **Recitals; Exhibits.** The foregoing recitals and the exhibits attached hereto are incorporated herein and made a part hereof by this reference.

2. **Grant of Easement Rights.** Grantor hereby bargains, sells, grants and conveys unto to Grantee and the Beneficiaries a perpetual, non-exclusive easement over, under, upon, and across the Easement Area for the purposes of installing, constructing, maintaining, accessing, repairing, replacing, using and operating the Hotel Drainage Improvements and the Shared Drainage Improvements located within the Easement Area and the drainage of surface water and stormwater through the Hotel Drainage Improvements and the Shared Drainage Improvements located within the Easement Area, together with the right of ingress and egress in and over any property owned by Grantor and adjacent to the Easement Area for doing anything necessary or useful or convenient for the enjoyment of this easement. Such easements shall be for the benefit of Grantee, O&M Entity, the Beneficiaries, and their respective successors and assigns, representatives, employees, agents, contractors, subcontractors, tenants, subtenants, and mortgagees. This Agreement encumbers the Easement Area and is appurtenant to and benefits the Benefited Property, and each parcel of property now or hereafter located therein, and is intended to run with the title thereto.

3. **Maintenance.** The Hotel Drainage Improvements and the Shared Drainage Improvements constructed or installed by Grantee within the Easement Area shall be deemed Shared Facilities and shall be maintained, repaired and replaced so the same remains in good condition and repair by O&M Entity at O&M Entity's sole cost and expense in accordance with all applicable laws, ordinances, codes, rules, and regulations. O&M Entity shall provide not less than five (5) business days' written notice to Grantor prior to performing any capital maintenance or repairs to the Hotel Drainage Improvements or Shared Drainage Improvements within the Easement Area except in the case of an emergency in which case no prior written notice shall be required, but O&M Entity shall provide prompt notice of the same. Notwithstanding anything contained in this Easement Agreement, any damage to the Hotel Drainage Improvements or Shared Drainage Improvements caused by the negligence of Grantor, its officers, agents, servants, employees or contractors shall be repaired by Grantor at its sole cost and expense. For the avoidance of doubt, the Office Easement Agreement obligates Shipyards Office to maintain the Office Drainage Improvements.

If O&M Entity 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 Grantor specifying the default and continuously proceed with reasonable due diligence to cure such default, then Grantor may at any time thereafter cure such default. In such event, Grantor shall provide an invoice to O&M Entity for such costs and O&M Entity shall pay the invoice amount to Grantor within 30 days after receipt of such invoice. If the O&M Entity fails to timely pay such invoice amount, interest will accrue on the unpaid amount at the lesser of (i) eighteen percent (18%) per annum, or (ii) the highest lawful rate from the invoice date until the date paid. Grantor shall be entitled to pre-judgment interest on all amounts owed to Grantor hereunder. If O&M Entity fails to pay such costs within thirty (30) days after receipt of such invoice, Grantee agrees it shall pay such costs on O&M Entity's behalf.

Grantor, Grantee, and O&M Entity acknowledge and agree that pursuant to the Office Easement Agreement, Shipyards Office has the right to cure a default of O&M Entity to comply with its maintenance obligations for the Shared Drainage Improvements.

4. **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 (provided that such reserved rights shall not be exercised in any manner that would diminish or materially interfere with Grantee's rights under this Easement Agreement) to (a) use, and to grant to others the right to use the Easement Area for any lawful purpose or use, (b) grant additional easements and licenses to others over, across, and under the Easement Area.

5. **Restrictions on Use of Easement Area.** A portion of the Easement Area is, and Grantee's and O&M Entity's rights hereunder to such portion of the Easement Area are, expressly subject to the terms and conditions of that certain Grant of Easement between the City of Jacksonville and JEA, dated May 15, 2003 and recorded in the Official Records of Duval County, Florida at Book 11109, Page 1942, as affected by that certain Use and Hold Harmless Agreement by and between Grantee and JEA, dated February 28, 2024 and recorded in the Official Records of Duval County, Florida at Book 20969, Page 1869. Any property of Grantor damaged by the Grantee or O&M Entity 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 O&M Entity, at its sole cost and expense. Grantee and O&M Entity further acknowledge that there are existing utility lines within the Easement Area which cannot be adversely impacted by the use of the Easement Area, including without limitation the construction and use of the Hotel Drainage Improvements and Shared Drainage Improvements. Notwithstanding anything in this Easement Agreement to the contrary, Grantee's and O&M Entity's rights hereunder shall be subject to all applicable laws, ordinances, codes, rules, and regulations. Without limiting the foregoing, Grantee and O&M Entity expressly acknowledge and agree that the Easement Area has been designated as a River View and Access Corridor as defined in Chapter 656, Part 3, Subpart H of the Jacksonville Ordinance Code.

6. **Relocation.** Notwithstanding the foregoing, if necessitated by Grantor or by work performed by the JEA, Grantor shall have the right to require reconfiguration or relocation of the Hotel Drainage Improvements and/or Shared Drainage Improvements on a permanent or temporary basis within the Easement Area or relocation of the Easement Area, or any part or parts thereof, at Grantee's sole cost and expense; provided, however, that any relocated Easement Area shall continue to provide reasonably equivalent surface water and stormwater drainage as provided by the Hotel Drainage Improvements and Shared Drainage Improvements in the prior Easement Area location. In conjunction with any such relocation, Grantor shall provide reasonable accommodation for Grantee to restore the Hotel Drainage Improvements and Shared Drainage Improvements to the same or similar condition as existed immediately prior to the commencement of such work, reasonable wear and tear excepted. Except in the case of an emergency, Grantor

shall provide Grantee and O&M Entity with at least one hundred eighty (180) days' prior written notice of Grantee's obligation to temporarily or permanently relocate the Hotel Drainage Improvements, and/or Shared Drainage Improvements, and/or Easement Area, and the opportunity to provide input as to the new location. Grantee shall comply with the requirements of Section 711.335, *Ordinance Code* (with the exception of the 180 day prior written notice requirement authorized by this section), in connection with any relocation under this section.

7. **Indemnification.**

Shipyards Hotel and O&M Entity shall, jointly and severally, indemnify, defend and hold harmless Grantor, its members, officers, agents, servants, employees, successors and assigns (the "Indemnified Parties") (i) 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, to the extent caused by Grantee's negligence or willful misconduct in the construction, operation or maintenance of the Hotel Drainage Improvements and Shared Drainage Improvements located on the Easement Area, and (ii) 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, to the extent caused by Grantee or Grantee's agents, contractors, subtenants or employees, and 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 misconduct of the Indemnified Parties. This indemnity does not alter, amend or expend the parameters of Section 768.28, Florida Statutes. If Grantee contracts with contractors or subcontractors in any way related to the Easement, Grantee shall require said contractors and subcontractors to comply with the indemnity requirements attached hereto as **Exhibit C**. This paragraph shall survive the expiration or earlier termination of this Easement Agreement.

8. **Insurance.**

(a) Until such time as Grantee has completed construction of the Hotel Drainage Improvements and Shared Drainage Improvements, Grantee shall comply with the insurance requirements attached hereto as **Exhibit D**. If Grantee contracts with contractors or subcontractors in any way related to this Agreement, Grantee shall require said contractors and subcontractors to comply with the insurance requirements attached hereto as **Exhibit D**.

(b) Once O&M Entity commences operation and maintenance of the Hotel Drainage Improvements and Shared Drainage Improvements, O&M Entity shall comply with the insurance requirements attached hereto as **Exhibit D**. If O&M Entity contracts with contractors or subcontractors in any way related to this Agreement, O&M Entity

shall require said contractors and subcontractors to comply with the insurance requirements attached hereto as **Exhibit D**.

9. **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.

To Grantor:	City of Jacksonville C/O Downtown Investment Authority 117 W. Duval Street, Suite 310 Jacksonville, Florida 32202 Attn: CEO
With a copy to:	Office of General Counsel 117 West Duval Street, Suite 480 Jacksonville, Florida 32202 Attn: Corporation Secretary
To Grantee:	Shipyards Trustee Jacksonville, LLC c/o/ Iguana Investments, LLC 1 EverBank Stadium Drive Jacksonville, Florida 32202 Attn: General Counsel
With a copy to:	Driver, McAfee, Hawthorne & Diebenow, PLLC 1 Independent Drive, Suite 1200 Jacksonville, Florida 32202 Attn: Steve Diebenow
To O&M Entity:	Shipyards Shared Facilities Jacksonville, LLC c/o/ Iguana Investments, LLC 1 EverBank Stadium Drive Jacksonville, Florida 32202 Attn: General Counsel
With a copy to:	Driver, McAfee, Hawthorne & Diebenow, PLLC 1 Independent Drive, Suite 1200 Jacksonville, Florida 32202 Attn: Steve Diebenow
To Shipyards Hotel:	Shipyards Hotel Jacksonville, LLC c/o/ Iguana Investments, LLC

1 EverBank Stadium Drive
Jacksonville, Florida 32202
Attn: General Counsel

With a copy to: Driver, McAfee, Hawthorne & Diebenow, PLLC
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

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. **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.

11. **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

12. **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, the Beneficiaries and their respective successors and assigns who own or use the Easement Area and any portion of the Benefited Property, respectively, including, without limitation, the condominium units contained in the Shipyards Residences, 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.

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.

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

WITNESSES:

Signed, sealed and delivered
in the presence of:

Print Name: _____

Address: _____

Print Name: _____

Address: _____

GRANTOR:

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

By: _____
Donna Deegan, 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 _____, 2025, by Donna Deegan, as Mayor, and James R. McCain, Jr., as Corporation Secretary, 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.

(SEAL)

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

FORM APPROVED:

Office of the General Counsel

GC-#1703420-v10-Iguana_-_Riverwalk_Drainage_Easement_(Hotel_and_Residences).doc

WITNESSES:

Signed, sealed and delivered
in the presence of:

Print Name: _____

Address: _____

Print Name: _____

Address: _____

GRANTEE:

SHIPYARDS TRUSTEE

JACKSONVILLE, LLC,

a Delaware limited liability company, not individually but solely as trustee under the provisions of a certain Land Trust Agreement dated February 12, 2024 and known as the Shipyards Land Trust, and no personal judgment or decree shall ever be sought or obtained against the trustee by reason of this instrument

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2025, by _____, the _____, of **SHIPYARDS TRUSTEE JACKSONVILLE, LLC**, a Delaware limited liability company, on behalf of the company, who ☐ is personally known to me or ☐ has produced _____ as identification.

(SEAL)

Name: _____

NOTARY PUBLIC, State of _____

Serial Number (if any) _____

My Commission Expires: _____

WITNESSES:

Signed, sealed and delivered
in the presence of:

Print Name: _____
Address: _____

Print Name: _____
Address: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2025, by _____, the _____, of **SHIPYARDS SHARED FACILITIES JACKSONVILLE, LLC**, a Delaware limited liability company, on behalf of the company, who ☐ is personally known to me or ☐ has produced _____ as identification.

(SEAL)

O&M ENTITY:

**SHIPYARDS SHARED FACILITIES
JACKSONVILLE, LLC,**
a Delaware limited liability company

By: _____
Name: _____
Title: _____

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

WITNESSES:

SHIPYARDS HOTEL:

Signed, sealed and delivered
in the presence of:

**SHIPYARDS HOTEL JACKSONVILLE,
LLC,**
a Delaware limited liability company

Print Name: _____
Address: _____

By: _____
Name: _____
Title: _____

Print Name: _____
Address: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical
presence or ☐ online notarization, this ____ day of _____, 2025, by
_____, the _____, of **SHIPYARDS HOTEL
JACKSONVILLE, LLC**, a Delaware limited liability company, on behalf of the
company, who ☐ is personally known to me or ☐ has produced
_____ as identification.

(SEAL)

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

EXHIBIT A

Easement Area



SURVEYING & MAPPING

14775 Old St. Augustine Road, Jacksonville, Florida 32258

etm-inc.com | 904.642.8550

Revised May 20, 2025
April 30, 2025

Work Order No. 23-348.02
File No. 129G-11.02A

Drainage Easement 1

A portion of Section 45 of the E. Hudnall Grant, Township 2 South, Range 27 East, Duval County, Florida, being a portion of those lands described and recorded in Official Records Volume 5739, page 1126, of the current Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the Southwesterly corner of those lands described and recorded in Official Records Book 20949, page 1061, of said current Public Records, said corner lying on the Easterly line of that certain Water Transmission Easement, as described and recorded in Official Records Book 11109, page 1942, of said current Public Records; thence South 17°37'02" West, along said Easterly line, 14.84 feet to the Point of Beginning.

From said Point of Beginning, thence North 29°05'40" West, departing said Easterly line of Water Transmission Easement, 10.49 feet; thence North 74°27'10" West, 161.60 feet; thence South 15°56'57" West, 42.52 feet to a point lying on the Northerly line of that certain Sovereignty Submerged Lands Easement, as described and recorded in Official Records Book 17606, page 216, of said current Public Records; thence North 74°24'56" West, along said Northerly line, 25.00 feet to its intersection with the Southerly prolongation of the Easterly line of that certain Sewer Utility Easement, as described and recorded in Official Records Book 17483, page 2143, of said current Public Records; thence North 15°56'57" East, along said Southerly prolongation and said Easterly line, 67.51 feet; thence South 74°27'10" East, departing said Easterly line, 164.95 feet to a point lying on the Westerly line of said Water Transmission Easement; thence North 17°37'02" East, along said Westerly line and along the Easterly line of Office Building Parcel, as described and recorded in Official Records Book 20632, page 138, of said current Public Records, 377.48 feet; thence South 72°22'58" East, departing last said lines, 30.00 feet to a point lying on the Westerly line of said Official Records Book 20949, page 1061, said line also being said Easterly line of Water Transmission Easement; thence South 17°37'02" West, along last said lines and along the Southerly prolongation of said Westerly line, 408.88 feet to the Point of Beginning.

Containing 17,265 square feet, more or less.

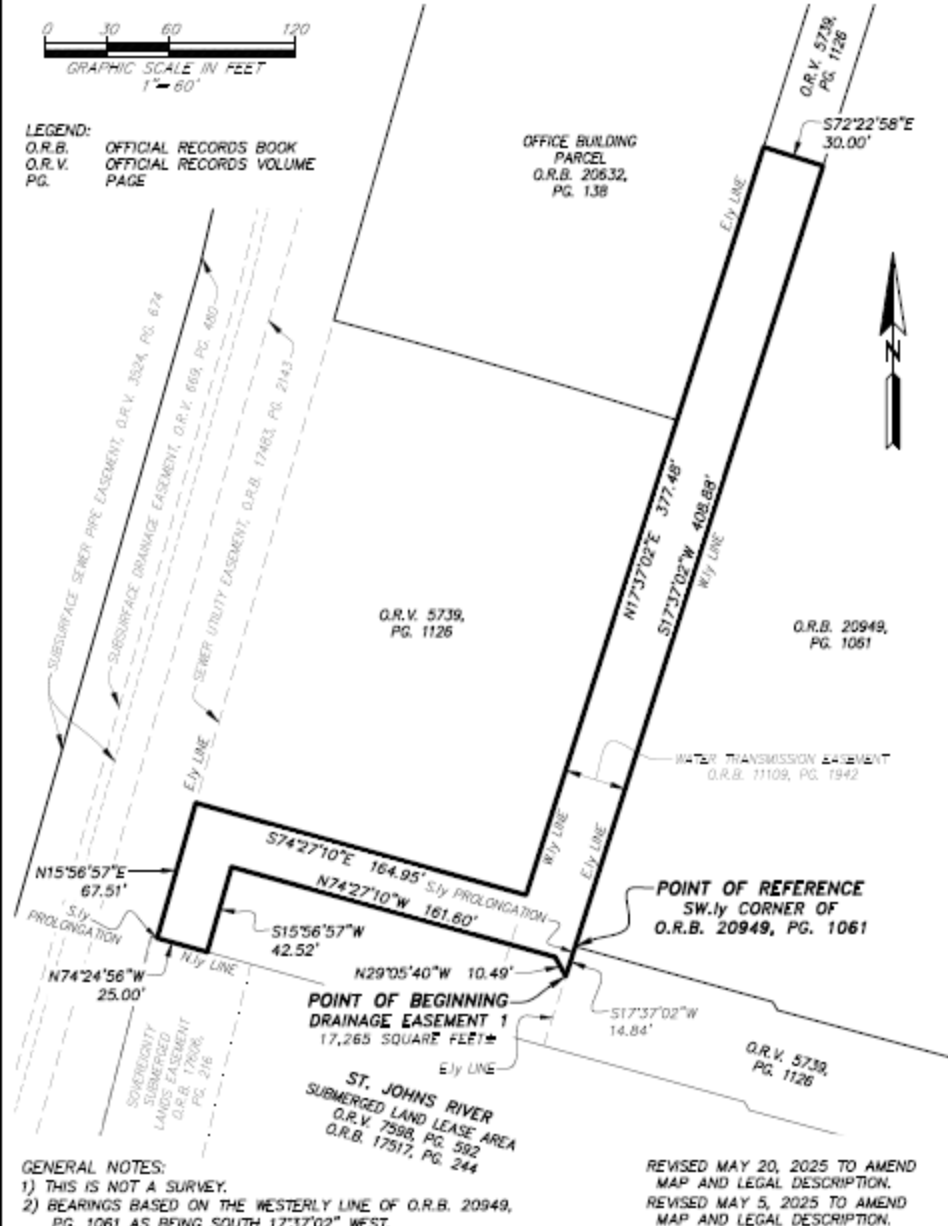
Jacksonville | Orlando | Ormond Beach

SKETCH TO ACCOMPANY DESCRIPTION OF

A PORTION OF SECTION 45 OF THE E. HUDNALL GRANT, TOWNSHIP 2 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA, BEING A PORTION OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS VOLUME 5739, PAGE 1126, OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED IN SEPARATE ATTACHMENT.



LEGEND:
O.R.B. OFFICIAL RECORDS BOOK
O.R.V. OFFICIAL RECORDS VOLUME
PG. PAGE



GENERAL NOTES:

- 1) THIS IS NOT A SURVEY.
- 2) BEARINGS BASED ON THE WESTERLY LINE OF O.R.B. 20949, PG. 1061 AS BEING SOUTH 17°37'02" WEST.

REVISED MAY 20, 2025 TO AMEND MAP AND LEGAL DESCRIPTION.
REVISED MAY 5, 2025 TO AMEND MAP AND LEGAL DESCRIPTION.

ETM
SURVEYING & MAPPING

14775 Old St. Augustine Rd,
Jacksonville, Florida 32258

(904) 642-8550
www.etmnc.com

Certificate of Authorization No. LR 3824

Trusted
Advisors,
Creating
Community.

THIS ITEM HAS BEEN ELECTRONICALLY SIGNED AND SEALED USING A DIGITAL SIGNATURE. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.



Digitally signed by
Gilmore C Colyer III
Date: May 28, 2025

SCALE: 1"=60'
DATE: APRIL 30, 2025

G. C. COLYER III
PROFESSIONAL SURVEYOR AND MAPPER
STATE OF FLORIDA LS No. 6963

ORDER NO. 25-148-02 FILE NO. 1236-11-024 DRAWN BY: DAC CAD FILE: E:\survey\proj\25\148\25-148-02.dwg

April 30, 2025

Work Order No. 23-348.01

File No. 129G-11.01A

Drainage Easement 2

A portion of Section 45 of the E. Hudnall Grant, Township 2 South, Range 27 East, Duval County, Florida, being a portion of those lands described and recorded in Official Records Volume 5739, page 1126, of the current Public Records of said county, being more particularly described as follows:

For a Point of Beginning, commence at the Southwesterly corner of those lands described and recorded in Official Records Book 20949, page 1061, of said current Public Records; thence Easterly along the Southerly line of said Official Records Book 20949, page 1061, the following 5 courses: Course 1, thence South 74°24'56" East, 98.72 feet; Course 2, thence South 28°23'35" East, 4.57 feet; Course 3, thence South 74°43'55" East, 124.42 feet; Course 4, thence North 61°10'13" East, 4.49 feet; Course 5, thence South 74°10'40" East, 164.23 feet; thence South 15°49'20" West, departing said Southerly line, 20.00 feet; thence North 74°23'36" West, 394.37 feet to a point lying on the Easterly line of that certain Water Transmission Easement, as described and recorded in Official Records Book 11109, page 1942, of said current Public Records; thence North 17°37'02" East, along said Easterly line, 20.00 feet to the Point of Beginning.

Containing 7564 square feet, more or less.



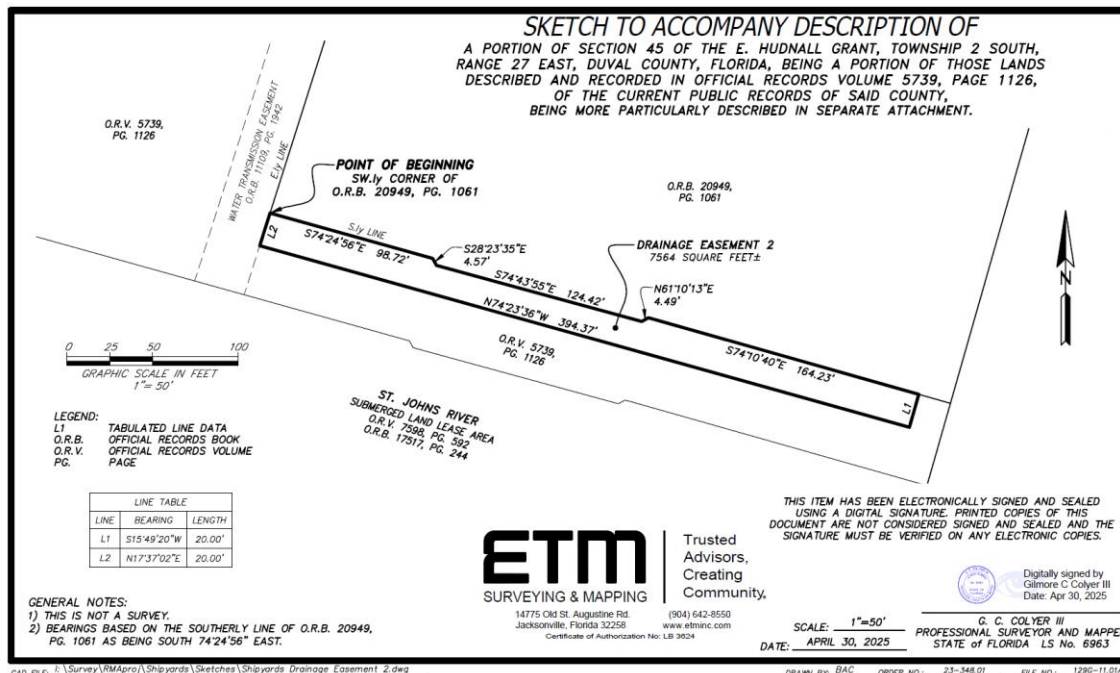


EXHIBIT A-1

The Plans

EXHIBIT B

Benefited Property aka Hotel and Residences Property

A portion of Section 45 of the E. Hudnall Grant, Township 2 South, Range 27 East, Duval County, Florida, being a portion of those lands described and recorded in Official Records Volume 5739, page 1126, of the current Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the intersection of the Easterly right of way line of A. Philip Randolph Boulevard (formerly Florida Avenue), a public variable width right of way as presently established, with the Northerly right of way line of East Bay Street (formerly Gator Bowl Boulevard, Bay Street Relocation) renamed by Ordinance No. 2022-839-E, a public variable width right of way as presently established; thence Southeasterly along said Northerly right of way line the following 4 courses: Course 1, thence Southeasterly along the arc of a curve concave Northeasterly having a radius of 40.00 feet, through a central angle of $89^{\circ}34'11''$, an arc length of 62.53 feet to a point of reverse curvature, said arc being subtended by a chord bearing and distance of South $28^{\circ}49'59''$ East, 56.36 feet; Course 2, thence Southeasterly along the arc of a curve concave Southwesterly having a radius of 544.50 feet, through a central angle of $27^{\circ}23'25''$, an arc length of 260.30 feet to a point of reverse curvature, said arc being subtended by a chord bearing and distance of South $59^{\circ}55'22''$ East, 257.83 feet; thence Southeasterly along the arc of a curve concave Northeasterly having a radius of 455.50 feet, through a central angle of $26^{\circ}06'09''$, an arc length of 207.51 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $59^{\circ}16'44''$ East, 205.72 feet; Course 4, thence South $72^{\circ}19'48''$ East, 139.11 feet; thence South $17^{\circ}40'12''$ West, departing said Northerly right of way line, 82.00 feet to a point lying on the former Southerly right of way line of said East Bay Street; thence South $72^{\circ}19'48''$ East, along said former Southerly right of way line, 327.16 feet to its intersection with the Westerly line of said Official Records Volume 5739, page 1126; thence South $15^{\circ}56'02''$ West, departing said former Southerly right of way line and along said Westerly line, 45.53 feet to its intersection with the Southerly right of way line of said East Bay Street; thence Easterly along said Southerly right of way line the following 3 courses: Course 1, thence Easterly, departing said Westerly line of Official Records Volume 5739, page 1126, and along the arc of a non-tangent curve concave Southerly having a radius of 3038.88 feet, through a central angle of $03^{\circ}47'11''$, an arc length of 200.82 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $74^{\circ}52'50''$ East, 200.78 feet; Course 2, thence South $72^{\circ}59'14''$ East, 56.39 feet; Course 3, thence South $72^{\circ}17'03''$ East, 30.00 feet to the Point of Beginning.

From said Point of Beginning, thence continue South $72^{\circ}17'03''$ East, along said Southerly right of way line of East Bay Street, 398.00 feet to a point lying on the Easterly line of said Official Records Volume 5739, page 1126; thence South $15^{\circ}56'02''$ West,

departing said Southerly right of way line and along said Easterly line, 501.28 feet; thence North 74°10'40" West, departing said Easterly line, 183.46 feet; thence South 61°10'13" West, 4.49 feet; thence North 74°43'55" West, 124.42 feet; thence North 28°23'35" West, 4.57 feet; thence North 74°24'56" West, 98.72 feet to a point lying on the Easterly line of that certain Water Transmission Easement as described and recorded in Official Records Book 11109, page 1942, of said current Public Records; thence North 17°37'02" East, along said Easterly line, 516.17 feet to the Point of Beginning.

Containing 4.74 acres, more or less.

[illegible]

EXHIBIT C

INDEMNIFICATION

Grantee's contractors and subcontractors or O&M Entity's contractors and subcontractors or (as the case may be, the "**Indemnifying Party/Parties**") shall 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 Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Easement Agreement, operations, services or work performed hereunder; and

2. Environmental Liability, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages caused by or arising out of the acts or omissions of Grantee or its contractors, invitees, licensees, agents, or employees or O&M Entity or its contractors, invitees, licensees, agents, or employees (as the case may be) in connection with this Agreement; and

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 D

INSURANCE REQUIREMENTS

Without limiting its liability under this Agreement, Grantee and O&M Entity at such times during the term of this Agreement as are designated in the Agreement (such insuring entity being referred to herein as the “**Insurance Provider**”) procure prior to commencement of work and maintain at its sole expense during the life of this Agreement (and Insurance Provider 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
Worker’s Compensation Employer’s Liability	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 Insurance Provider (and, to the extent they are not otherwise insured, its 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.	
Commercial General Liability	\$1,000,000 General Aggregate \$1,000,000 Products & Comp. Ops. Agg. \$1,000,000 Each Occurrence \$1,000,000 Personal/Advertising Injury \$ 50,000 Fire Damage \$ 5,000 Medical Expenses

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. Grantor and Insurance

Provider agree that Insurance Provider may, in lieu of a commercial general liability policy, obtain and maintain a specialized marina insurance liability policy that contains minimum policy limits as set forth above.

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

Insurance Provider shall maintain Automobile Liability coverage only if Insurance Provider operates any automobiles in connection with 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).

Professional Liability \$1,000,000 per Claim and Aggregate
(Including Medical Malpractice when applicable)

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 three year reporting option beyond the annual expiration date of the policy.

Builders Risk/ Installation Floater %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/Installation Floater 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 project. Named insured's shall be: CONTRACTOR, the CITY, and respective members, officials, employees and agents, the ENGINEER, and the PROGRAM MANAGEMENT FIRM(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;

sdefense 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.

Umbrella Liability

\$5,000,000 Each Occurrence Agg.

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

Additional Insurance Provisions

- A. Certificates of Insurance. Insurance Provider shall deliver the Grantor Certificates of Insurance that shows the corresponding **City Contract or Bid Number** in the Description, **Additional Insureds, Waivers of Subrogation** and **Primary & Non-Contributory statement** as provided below. 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.
- B. 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.
- C. 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.
- 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. Insurance Provider's Insurance Primary. The insurance provided by the Insurance Provider shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the Grantor or any Grantor 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 Insurance Provider. 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. Insurance Provider's Insurance Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Insurance

Provider or its Contractors, Subcontractors, employees or agents to the Grantor or others. Any remedy provided to Grantor or Grantor'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 Grantor nor failure to disapprove the insurance furnished by Insurance Provider shall relieve Insurance Provider of Insurance Provider's full responsibility to provide insurance as required under this Agreement.
- I. Notice. The Insurance Provider shall provide an endorsement issued by the insurer to provide the Grantor 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 Insurance Provider, 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 Insurance Provider 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, grant recipient or service provider and its/their accompanying exposures and liabilities, the City/Risk Management may require changes to their insurance program, this may include policies, policy limits, endorsements, deductibles, exclusions; etc.
- L. Special Provision: Prior to executing this Agreement, Insurance Provider shall present this Agreement and insurance requirements attachments to its Insurance Agent Affirming: 1) That the Agent has Personally reviewed the insurance requirements of the Contract 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 Insurance Provider.