

# City of Fort Lauderdale

*City Hall  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301  
[www.fortlauderdale.gov](http://www.fortlauderdale.gov)*



## Meeting Minutes

**Tuesday, April 4, 2017**

**6:00 PM**

**City Commission Chambers**

## **City Commission Regular Meeting**

***FORT LAUDERDALE CITY COMMISSION***

***JOHN P. "JACK" SEILER Mayor - Commissioner  
BRUCE G. ROBERTS - Commissioner - District I  
DEAN J. TRANTALIS - Vice Mayor - Commissioner - District II  
ROBERT L. McKINZIE Commissioner - District III  
ROMNEY ROGERS Commissioner - District IV***

***LEE R. FELDMAN, City Manager  
JOHN HERBST, City Auditor  
JEFFREY A. MODARELLI, City Clerk  
CYNTHIA A. EVERETT, City Attorney***

**Invocation**

Reverend Father Paul J. Schweinler - Fort Lauderdale Police  
Department Chaplain

**Pledge of Allegiance**

City Auditor John Herbst

**ROLL CALL**

**Present:** 5 - Commissioner Bruce G. Roberts, Vice Mayor Dean J. Trantalis,  
Commissioner Robert L. McKinzie, Commissioner Romney Rogers and  
Mayor John P. "Jack" Seiler

**Call to Order**

Mayor Seiler called the meeting to order at 6:09 p.m.

**QUORUM ESTABLISHED**

Also Present: City Manager Lee R. Feldman, City Clerk Jeffrey A.  
Modarelli, City Attorney Cynthia A. Everett, City Auditor John Herbst,  
and Sergeant at Arms Andy Pallen

**Moment of Silence**

Mayor Seiler requested a Moment of Silence for Brian Dassler, former  
Member of Education Advisory Board and Teacher of Year 2006 at  
Stranahan High School.

**No e-comments were submitted for this meeting.**

**ANNOUNCEMENTS**

Mayor Seiler announced the following revisions to the agenda item  
and/or back-up material:

- CR-1 - Revised page 2 of Resolution
- CR-5 - Revised paragraph 4 of Exhibit 2
- CR-6 - Revised page 7, Section A of Exhibit 1
- CR-8 - Revised grant amounts and end date in Memo AND

Revised Exhibit 4

- PUR-3 - Revised Contract dollar amount and added paragraph to Memo

Mayor Seiler announced Vice Mayor Trantalis pulled item PUR-2 and Commissioner Rogers pulled item CM-5 from the Consent Agenda for separate discussion.

## Approval of MINUTES and Agenda

[17-0466](#)

Minutes for March 7, 2017 Commission Conference Meeting and March 7, 2017 Regular Commission Meeting

Commissioner Roberts made a motion to approve this item and was seconded by Vice Mayor Trantalis.

### APPROVED

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

## PRESENTATIONS

**PRES-** [17-0459](#)

1

Welcome and Introduction of Consul General Susan Harper, Consul General of Canada to Florida, Puerto Rico and the United States Virgin Islands

Mayor Seiler welcomed and introduced Consul General Susan Harper, Consul General of Canada to Florida, Puerto Rico and the United States Virgin Islands. Mayor Seiler commented on all of the factors that contribute to the positive relationship between Canada and the United States and its contributions to the City and the State of Florida. Consul General Harper addressed the Commission, thanking Mayor Seiler and the Commission, expounding on this important, positive relationship. She showed a short video illustrating Canada's contributions to the U.S. and Florida, a copy of which can be seen on YouTube as noted in the backup to these minutes.

### PRESENTED

**PRES-** [17-0457](#)

2

Proclamation declaring April 9-15, 2017 as National Public Safety Telecommunicators Week in the City of Fort Lauderdale

Vice Mayor Trantalis presented the Proclamation declaring April 9-15, 2017 as National Public Safety Telecommunicators Week in the City of Fort Lauderdale to Tangila Tucker, Assistant Site Manager,

Regional Communications for the Broward County Sheriff's Office. Vice Mayor Trantalis read the Proclamation in its entirety. Ms. Tucker thanked Mayor Seiler, the Commission, and all of the 911 Telecommunications Operators working at 911 Call Centers in Coconut Creek, Sunrise, and Pembroke Pines. Ms. Tucker also discussed new technology to assist with 911 Emergency Calls.

**PRESENTED**

**PRES-** [17-0458](#)  
**3**

Proclamation declaring April, 2017 as Fair Housing Month in the City of Fort Lauderdale

Commissioner Rogers presented the Proclamation declaring April, 2017 as Fair Housing Month in the City of Fort Lauderdale to Rita Scott, HOPE, reading the Proclamation in its entirety. Ms. Scott thanked Mayor Seiler and the Commission for their partnership, support and dedication to Fair Housing.

**PRESENTED**

**PRES-** [17-0460](#)  
**4**

Proclamation declaring April 17-22, 2017 as National Community Development Week in the City of Fort Lauderdale

Commissioner McKinzie presented the Proclamation declaring April 17-22, 2017 as National Community Development Week in the City of Fort Lauderdale to Jonathan Brown, Housing and Community Development Manager, reading the Proclamation in its entirety and highlighting his work with the City. Mr. Brown thanked Mayor Seiler and the Commission for the Proclamation. He noted the achievements attained in Housing and Community Development which could not have been realized without their support. He also thanked Staff for their work and support in achieving the department's goals.

**PRESENTED**

**CONSENT AGENDA**

Mayor Seiler announced the procedures for public comment on items on the Consent Agenda.

**CONSENT AGENDA PUBLIC COMMENT**

Mayor Seiler recognized Lee Bacall, 1640 Riverland Road, who spoke about his concerns with the language in Exhibit A for item CR-6. City Manager Feldman stated it was a typographical error and Mayor Seiler had announced the revision earlier.

Mayor Seiler recognized Mark Cantor, 2060 Riverland Road, who also had a concern with the typographical error. Mr. Cantor thanked Diana

Alarcon, Director of Transportation and Mobility, for her dedication and professionalism in her role with the City.

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who commented on item CM-3 and read from an article on this topic.

## CONSENT MOTION

### Approval of the Consent Agenda

Commissioner McKinzie made a motion to approve this item and was seconded by Commissioner Rogers.

#### Approve the Consent Agenda

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-1**    [17-0438](#)    Motion Authorizing Settlement of Workers' Compensation Claim of Gail Thomas-Blackmon - \$292,500.00

#### APPROVED

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-2**    [17-0440](#)    Motion Authorizing Settlement of General Liability Claim in the Matter of Horace Smith v. City of Fort Lauderdale, Case No. CACE 15-015707 (09) - \$45,000.00

#### APPROVED

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-3**    [17-0462](#)    Motion Authorizing Settlement of General Liability Claim in the Matter of Albion Staffing Solutions, Inc. v. City of Fort Lauderdale, Case No. CACE 15-018760 (09) - \$93,000.00

#### APPROVED

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-4**    [17-0381](#)    Motion to Approve Event Agreements: The Walls, PawSUP & Surf Competition, Great Strides Fort Lauderdale, and The Most Amazing Race

#### APPROVED

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-5**    [17-0382](#)

Motion Approving an Application for a Temporary Beach License and Outdoor Event Agreement with South East Florida Apartment Association Inc. for a Volleyball Competition

Mayor Seiler recognized Art Seitz, 1905 N. Ocean Boulevard, who discussed his support of this item. Mr. Seitz said he is pleased to see volleyball on the beach and the City should be the volleyball capital of the world as compared to other events such as swimming.

Commissioner Rogers stated he did not have an issue with this volleyball event. He did, however, note his constituents' overall concern with the number events on the beach and the extended usage of the South Beach Parking Lot for event setup and takedown for the recent Tortuga Music Festival. He requested this issue be addressed at the City's Long Range Planning Session scheduled for May 10, 2017. Mayor Seiler confirmed this would be put on that Agenda.

Commissioner Rogers made a motion to approve this item and was seconded by Commissioner McKinzie.

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-6**    [17-0384](#)

Motion to Approve Event Agreements and Related Road Closings: Walk Like MADD & MADD Dash Fort Lauderdale 2017, Covenant House 5K, and Heroes in Recovery 6K- South Florida

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-7**    [17-0340](#)

Motion to Approve Utilization of Law Enforcement Trust Funds to Purchase LeadsOnline - LeadsOnline LLC - \$24,363

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**CM-8**    [17-0324](#)

Motion to Approve First Amendment to Task Order Number 28 for Construction Services - Southeastern Engineering Contractors, Inc.  
- \$33,206.60

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

- CM-9**    [17-0325](#)       Motion to Approve First Amendment to Task Order Number 33 for Construction Services - Southeastern Engineering Contractors, Inc.  
- \$8,982.50  
**APPROVED**  
**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- CM-10**   [17-0326](#)       Motion to Approve First Amendment to Task Order Number 35 for Construction Services - Southeastern Engineering Contractors, Inc.  
- \$29,953  
**APPROVED**  
**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

## CONSENT RESOLUTION

- CR-1**    [17-0413](#)       Resolution Authorizing Qualified Target Industry Tax Refund Incentive for Project Bogey  
**ADOPTED**  
**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- CR-2**    [17-0414](#)       Resolution Authorizing Qualified Target Industry Tax Refund Incentive for Project Vista  
**ADOPTED**  
**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- CR-3**    [17-0257](#)       Resolution Approving the Re-naming of Dolphin Isles Park to Lu Deaner Park  
**ADOPTED**  
**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- CR-4**    [17-0303](#)       Resolution Authorizing the Acceptance of Grant Funds and Execution of a Grant Agreement with the Florida Department of Environmental Protection for River Oaks Preserve Project in the amount of \$629,695  
**ADOPTED**  
**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

- CR-5**    [17-0367](#)       Resolution to Approve Execution of Essentially Built-Out Agreement for The New River Center Florida Quality Development
- ADOPTED**
- Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- CR-6**    [17-0283](#)       Resolution Approving a Locally Funded Agreement and Escrow Agreement with Florida Department of Transportation for Design of Improvements to Riverland Road from SW 31st Avenue to SW 21st Street
- ADOPTED**
- Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- CR-7**    [17-0112](#)       Resolution Approving the Consolidated Budget Amendment to Fiscal Year 2017 - Appropriation
- ADOPTED**
- Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- CR-8**    [17-0379](#)       Approval on the Acceptance of a Grant from the United States Department of Homeland Security, Urban Area Security Initiative, State of Florida Division of Emergency Management through the City of Miami, FY2016 Urban Area Security Initiative (UASI), in the amount of \$208,615.75
- ADOPTED**
- Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

## **PURCHASING AGENDA**

- PUR-1**    [17-0258](#)       Motion to Approve Amendment to Contract for Fleet Maintenance and Management Services - First Vehicle Services, Inc. - \$188,838
- APPROVED**
- Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler
- PUR-2**    [17-0286](#)       Motion to Approve Contract for Central Beach Alliance Pump Station D-41 Replacement - Intercounty Engineering Inc. - \$1,484,890
- Vice Mayor Trantalis asked Staff why this is being done and who, if anyone, is contributing towards its cost.



City Manager Feldman deferred to Alan Dodd, Deputy Director of Public Works. Mr. Dodd stated the pump station is being replaced due to its age, condition, and capacity to maintain the system. In response to Vice Mayor Trantalis's question, Mr. Dodd confirmed the construction of The Gale was a contributing factor regarding capacity. Mr. Dodd deferred to the Department of Sustainable Development regarding the financial contribution from The Gale.

Mayor Seiler recognized Ella Parker, Urban Design and Development Manager, who did not recall if the standard impact fees paid by The Gale related to this pump station. Vice Mayor Trantalis continued discussions on this general topic as it related to the former Bahia Mar project. City Manager Feldman expounded on how Impact Fees are calculated and assessed to developers. City Manager Feldman stated he would provide a breakdown analysis to Vice Mayor Trantalis.

Vice Mayor Trantalis made a motion to approve this item and was seconded by Commissioner Roberts.

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**PUR-3** [17-0336](#)

Motion to Approve Contract for Purchase of General Roadway and Miscellaneous Construction Services - DP Development of the Treasure Coast, LLC - \$1,074,442.74

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**MOTIONS**

**M-1** [17-0380](#)

Motion to Approve an Event Agreement with Fort Taco LTD for Fiesta Fabuloso Cinco De Mayo Celebration

Mayor Seiler recognized Larry O'Neil, General Manager of Fort Taco, Ltd, who confirmed there were no complaints from last year's event for Commissioner Rogers. Mr. O'Neil also stated following discussions with the President of Colee Hammock Homeowners Association, they did not have an issue with the event's duration.

Commissioner Rogers made a motion to approve this item with the extended timeframe of midnight and was seconded by Commissioner McKinzie.

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**M-2**     [17-0416](#)

Motion to Approve an Event Agreement and Related Road Closings with Strictly Local, Inc. for Food in Motion: Flagler Village Green Market

Vice Mayor Trantalis made a motion to approve this item and the extended time until 11:00 p.m. for the event and was seconded by Commissioner McKinzie.

**APPROVED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**M-3**     [17-0449](#)

Motion to Authorize Rahn Bahia Mar, LLC. to Submit Development Permit Applications Relating to the Bahia Mar Property

Mayor Seiler requested City Attorney Cynthia Everett to clarify the Commission's role as to what the Commission can and cannot do with regard to this item. City Attorney Everett explained the following points:

- If approved, this motion will allow the tenant to submit an application and additional associated documents to be reviewed for consistency with City Code and other applicable regulations.
- Should the Commission approve this motion, she provided the Commission the correct language for the motion . ***A copy of this language is attached to these minutes.***
- Submission of the application does not surrender any subsequent approvals by the Commission.
- This would be a ministerial submission to allow Staff to begin its review.
- It is permission to submit a proposal that would be subject to Commission review and approval in their Quasi-Judicial capacity at a later date.

Mayor Seiler stated approving this item should not represent any endorsement of the application.

Vice Mayor Trantalis commented on aspects of the amended and restated lease agreement dated January 3, 1995 in Article 24,

Alterations and Additions, and its compliance with current zoning and building codes. He questioned the Commission's authority to change what is in the current lease, requesting the Commission to take this into consideration. City Attorney Everett gave her opinion, stating Vice Mayor Trantalis's concern is a separate issue. She expounded on her reasoning, stating approving this motion does not give up the rights agreed to in the current lease. Commissioner Rogers commented on his analysis of the current lease. He concurred with Vice Mayor Trantalis that the applicant needs to agree that the approval of this item is not a waiver of approval for any changes or additions.

Mayor Seiler recognized Robert Lochrie, Esq., Lochrie & Chakas, on behalf the applicant, Rahn Bahia Mar, LLC. Mayor Seiler requested Mr. Lochrie's confirmation that he is in agreement with City Attorney Everett's opinion about the applicant's rights and remedies regarding this matter. Mr. Lochrie stated neither tenant nor the City is waiving any of their rights. They are only trying to submit an application to the City. Vice Mayor Trantalis continued discussing his concerns. He requested Mr. Lochrie to confirm that the City reserves the right to withhold consent for any major alterations, changes or additions to the leased property. Mr. Lochrie stated, through this process, neither the City nor the applicant is waiving any of its rights under the lease.

Commissioner Rogers asked City Attorney Everett about her conclusion on the definition of reasonableness and if the application fits within the law. She responded this item does not waive any of the rights of the City under the lease. When using the wording for this motion that she has provided to the Commission, those issues would be addressed separately at a later time. He requested City Attorney Everett research case law on this issue in order for the City to be on firm legal ground.

Mayor Seiler reiterated the process and discussions continued on this process being awkward and the best manner in which to move forward.

Vice Mayor Trantalis voiced his concerns regarding the ability of the Commission having any input on the applicant's submission of a Site Plan Level IV. The only subjective issue in Site Plan Level IV is neighborhood compatibility and none of the previous issues that were part of the I.D. Zoning could be considered by the Commission. He stated his desire is to see Bahia Mar redeveloped but wants to ensure the Commission is not denied the right to give the entire project a comprehensive review at the appropriate time. Mr. Lochrie reiterated that this item is for the right to submit an application to begin the process with the City. Commissioner Rogers emphasized the

importance of this decision tonight. Further discussions continued on the considerations to be addressed.

After consulting with Assistant City Attorney D'Wayne Spence, City Attorney Everett noted the three different approval levels needed. Vice Mayor Trantalis reiterated his concerns about the submission being a Site Plan Level IV. He discussed other ways for the applicant to accomplish its goal, i.e., community outreach and pre-Development Review Committee (DRC) process. He stated this decision should not be based on the need for expediency. Vice Mayor Trantalis said any subsequent Quasi-Judicial item decision would require the Commission to interpret the current law.

Mayor Seiler opened up the floor for public comments.

Mayor Seiler recognized, Jack Malcolm, 1900 Admirals Way, stating the word "vacuum" comes to mind in terms of the vast amount of unknown information, noting the importance of this decision and its effect on residents for decades to come. He concurred with Vice Mayor Trantalis's point about the inability of the Commission to have a large amount of subjective input on a Site Plan Level IV application. Mr. Malcolm urged the Commission to slow down, get answers and defer this item.

Mayor Seiler recognized Anne Hilmer, 621 Idlewyld Drive, who stated her opposition to this item. She discussed the Commission's approval of both public and private development without addressing long term issues regarding their impact on an overburdened and aging infrastructure, failing roads, traffic, and emergency response times. Ms. Hilmer questioned the source of funding to address those issues.

Mayor Seiler recognized Edwina Eichner, 1308 SE 11th Street, who discussed her opposition to this item. She noted her concerns with public land for private use in addition to traffic, aging infrastructure, failing roads, and emergency response times. Ms. Eichner stated this project is not one the residents are ready to accept. She read an excerpt from the book entitled *Checkered Sunshine* and its relation to the applicants proposed development with the City has the owner.

***Ms. Eichner passed out information to the Commission. A copy is attached to these minutes.***

Mayor Seiler recognized Charlotte Rodstrom, 66 Nurmi Drive, who stated her opposition to this item. She noted Bahia Mar is one of the last substantial pieces of public land remaining. Ms. Rodstrom recommended the Commission go back and rewrite the motion and

the agenda item to say the Commission, as representatives of the public land is the applicant, not the developer. Ms. Rodstrom's additional comments expounded on the Commission's duty to represent the public. She noted taxes are not paid on public land, only the improvements, questioning:

- Who would pay taxes on the substantial improvements proposed;
- The process of giving up ownership of the property; and
- What happens to the submerged lands.

She stated this action would be precedent setting and is something the Commission should carefully consider. Ms. Rodstrom concurred with Commissioner Rogers and Vice Mayor Trantalis's positions stated earlier.

In response to Vice Mayor Trantalis's question, City Attorney Everett stated this item would authorize the tenant to be the City's agent and expounded on the reasoning for recommending this. She confirmed the City could be the applicant. She also confirmed for Vice Mayor Trantalis that should the City submit the project's plans as the applicant, they could be withdrawn at any time. Vice Mayor Trantalis emphasized the fact that should the City be the applicant, the City retains the ability to control the process. Further discussions continued on this point.

Mayor Seiler recognized John Roth, 333 Sunset Drive, who discussed the development of the marine industry in the world and the City. He also commented on the importance of the Bahia Mar Yachting Center not being considered a condo or apartment development and future opportunity value to the City as compared to other yachting centers.

Mr. Roth stated the applicant's proposed development has a "D" rating from the marine industry. It does not serve to enhance the marine trade industry that contributes a significant amount of dollars to the local economy. He emphasized the marine industry rating for a project at Bahia Mar needs to be an "A", noting the specific issues relating to the needs of the marine industry and Boat Show.

Mayor Seiler recognized Betty O'Connor, 830 Isle of Palms, who addressed the Commission in opposition to this item. Ms. O'Connor stated the public has not seen any details of the proposed project. She questioned the failing roads and aging infrastructure in the area that needs to be addressed prior to the approval of any further development. Due to the fact this is public land, she emphasized it should never be used for residential development. Ms. O'Connor

stated when the land was originally acquired, it was designated for boating and marine use. Ms. O'Connor questioned if the Boat Show has endorsed this plan. She asked the reasoning behind rushing this decision, recommending it be slowed down.

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue, who stated his support of this item, discussing the lengthy chain of ownership of the Boat Show that leads back to the leaseholder consortium for this land. Mr. Rosenthal referenced an article he sent to the Commission regarding the Boat Show's lease negotiations for a 20-year lease. He recommended those with an issue about this item make a statement prior to the Commission voting to approve this item.

Mayor Seiler recognized Craig Fisher, 200 S. Birch Road, who discussed his opposition to this item, stating this is a complicated decision that needs to be carefully considered. He spoke about the Commission, as landlords, should consider the large public opposition and negativity regarding this matter. Mr. Fisher commented on the components of a Site Plan Level IV, recommending anything done at Bahia Mar be done correctly, with public acceptance and not for the reason of getting something done. He recommended the Commission take its time and handle this matter in a realistic manner.

Mayor Seiler recognized Mary Fertig, President of Idlewyld Neighborhood Improvement Association, who addressed the Commission in opposition to this item. She discussed what approving this motion would entail and its effect on one of the last public pieces of property on the barrier island, noting the density issues involved in the proposed project. Ms. Fertig raised issues of development impact, the City's liability regarding the proposed rental apartments, revenue, retaining the Boat Show, and degree of financial benefit to the City.

She said the current lease addresses some of these questions and Staff should provide this information to the Commission prior to a vote on this item. Ms. Fertig questioned numerous issues relating to the Boat Show. She discussed the need to prove this proposal is financially beneficial to the City.

Ms. Fertig also discussed the issue raised in the last three lines of the amended and restated lease agreement dated January 3, 1995 in Article 24, Alterations and Additions, and impact on future negotiations. Ms. Fertig recommended the Commission defer this item tonight and get the necessary answers to the questions she raised.

***Ms. Fertig submitted a copy of the current Bahia Mar lease for the record. A copy is attached to these minutes.***

Mayor Seiler recognized Kristen Maus, 1778 SE 25th Avenue, who stated her opposition to this item. She requested that due to the short time involved with the applicant's submission, the Commission should not begin this process tonight. Ms. Maus concurred with Vice Mayor Trantalis's points raised earlier, recommending community outreach by the developers to come up with a compromise. She noted the significance of it being public land, stating it has great value and requesting the Commission appreciate and preserve public land. Ms. Maus also discussed the 1,000 signed and certified petitions submitted to the Commission six months ago that stated they wanted public land preserved without private development.

Mayor Seiler recognized Bruce Cummings, 830 SW 9th Street, who agreed with the previous points raised in opposition to this item. Ms. Cummings asked who has been signing these applications to date. City Manager Feldman stated he has delegated this to the associated departments. Ms. Cummings asked for the results of the appraisal on the Bahia Mar property. Vice Mayor Trantalis stated the appraisal is close to \$100,000,000. Ms. Cummings raised the issue of possibly renegotiating the terms of the current lease to reflect its true value.

Mayor Seiler recognized Art Seitz, 1905 N. Ocean Boulevard, who gave his input on the applicant's proposed development and ideas regarding, bicyclists, pedestrians, and events in the area. He recommended doing something similar to the 20-foot waterfront promenade in Miami Beach in order accommodate events like Art Basel.

Mayor Seiler recognized Paul Chettle, 200 S. Birch Road, who stated his support for public use of public land. Mr. Chettle discussed the high priority and importance of having the Boat Show lease settled and involvement in the process, the impact of the action on the current agenda, and the need for assurance that the use of the property by the tenant will be captured under the rents identified in Article 26 of the lease agreement.

Mr. Chettle stated now is the correct time to be renegotiating the Boat Show lease, stating the longer the lease is delayed, the fewer opportunities that remain.

Mayor Seiler recognized Sonya Burrows, 1600 NW 4th Street, who discussed her opposition to this item. She agreed that the

Commission needs to slow down and listen to the community. Ms. Burrows stated the issues raised on this item reflect the concerns of the community that need to be vetted prior to moving forward. She stated these types of situations are also occurring in District III and they need to stop.

Mayor Seiler recognized John Rodstrom, 66 Nurmi Drive, who discussed his opposition to this item. He said passing this item essentially ends further debate on this matter. He commented on value of the land with the proposed improvements and the low current rent received by the City.

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who commented on the results of previous actions by the Commission.

Commissioner Rogers discussed his concerns with the process and the awkwardness of this scenario. He stated his desire for the applicant to meet with each Commission member to discuss this matter, specifically with respect to the Boat Show. Due to lack of known pending deadlines, he recommended the Commission not vote on this tonight.

Vice Mayor Trantalis commented on the need for the Boat Show to continue and that approving this tonight would limit the types of changes needed by the community and the Commission. He emphasized the need for significant community outreach for development of this property, encouraging the applicant to pursue community engagement.

Commissioner Roberts asked Commissioner Rogers what process should be used. Commissioner Rogers stated he needs to know what the process will be, noting the history of the applicant, and would like to see it prior to it going forward.

Commissioner Roberts stated that due to the current 47 year lease, it is not public land and needs to be developed with this in mind. He discussed the need to retain the Boat Show, commented on the lease and addressing public input. He stated there will be ample time to address these issues once a holistic approach to the process begins. He stated the Commission can still call this item up under a Site Plan Level III or a Site Plan Level IV, acknowledging the reduction in Commission control due to not falling under Innovative Development (ID) Zoning. He stated he was willing to support a 60-day deferral.

Discussions continued on the subjective issue of neighborhood compatibility with a Site Plan Level IV. Mayor Seiler stated it is the



Commission's prerogative to determine neighborhood compatibility. Vice Mayor Trantalis disagreed, noting existing case law. Mayor Seiler asked City Attorney Everett who stated it is ultimately up to the Commission, stating there are criteria.

Mayor Seiler recognized Ella Parker, Urban Design and Development Manager, asking her to put on the record the process for a Site Plan Level IV. Ms. Parker stated the steps in the process include approval by:

- DRC for a technical review by Staff;
- Planning and Zoning Board for a recommendation to the City Commission; and
- City Commission.

Ms. Parker stated the standards the City Commission would apply include:

- South Beach Marina District Zoning requirements; and
- Central Beach Zoning requirements (including neighborhood compatibility aspects of the Code).

Mayor Seiler stated the differences between the approvals by the City as landlord and the City Commission in their Quasi-Judicial capacity as the governing body. City Attorney Everett confirmed. Vice Mayor Trantalis asked about who would be the overriding authority. City Attorney Everett stated the reasonableness of the project cannot be determined until the project is fully presented and understood by the landlord. Further discussions and questions continued on the legal interpretation of Article 24 of the lease as the landlord and the restrictions of a Site Plan Level IV, compatibility issues, and the process.

Commissioner Rogers asked City Manager Feldman when Staff will be able to have the first Infrastructure Task Force Meeting. Mayor Seiler requested the meeting take place as soon as possible. Paul Berg, Director of Public Works, confirmed he would work towards having it in the next two weeks.

Commissioner Rogers made a motion to defer this item to the May 2, 2017 Commission Meeting and Vice Mayor Trantalis seconded the motion.

**DEFERRED to May 2, 2017**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**NEIGHBOR PRESENTATIONS****NP-1**    [17-0469](#)            Jay Bruce Bartz - Traffic - Construction

Mayor Seiler recognized Jay Bruce Bartz, 1400 NE 5th Court, who gave a neighbor presentation regarding his viewpoint that the City is in distress as a result of over building and poor advice.

**RECEIVED**

**NP-2**    [17-0470](#)            Charles King - Renters Need Not Apply

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who gave a neighbor presentation related to the issue of renters not being allowed to be on the Infrastructure Task Force to address the aging infrastructure. He stated fifty percent of the City's residents are renters, recommending renters in the City be allowed to be on the Infrastructure Task Force.

**RECEIVED**

**NP-3**    [17-0471](#)            Sonya Burrows, President - Fort Lauderdale Negro Chamber of Commerce, Inc. - Repurposing The Mizell Center on Sistrunk Boulevard

Mayor Seiler recognized Sonya Burrows, 1021 NW 6th Street and on behalf of the Fort Lauderdale Negro Chamber of Commerce, Inc., who discussed the issue of repurposing the Mizell Center at 1409 NW 6th Street. Ms. Burrows comments focused on the need to repurpose the Mizell Center in order to assist the community in creating jobs and training individuals for employment opportunities. Prior to signing a lease with the YMCA, Ms. Burrows requested the Commission give a valid explanation for the rejection of the Minority Builders Association's proposal for Mizell Center. She requested the Commission give reconsideration to their proposal and the proposals of other interested parties who wish to provide residents with opportunities for employment training at Mizell Center. Ms. Burrows discussed the historical importance and the impact of Mizell Center in the black community. Ms. Burrows emphasized the importance of community input on this issue and the goal of job creation. She stated her support of rebuilding the Lalley Branch YMCA at its current site, which the community believes is a more appropriate and safe location for children and senior citizens to attend. Ms. Burrows noted the signed petitions in support of the YMCA building remaining at its current location.

**RECEIVED**

**RESOLUTIONS****R-1      [17-0433](#)**      Appointment of Board and Committee Members

City Clerk Modarelli read the Board and Committee member appointments for Resolution R-1 as noted below:

**BEACH BUSINESS IMPROVEMENT DISTRICT**

William Cunningham (primary member) representing the Bahia Mar, City of Fort Lauderdale, is appointed to the Beach Business Improvement District Advisory Committee, in the category of seven of the ten highest assessed property owners or a representative of such assessed property owners, to complete an unexpired term ending August 31, 2017, or until his successor has been appointed.

**CHARTER REVISION BOARD**

Ron Gunzburger is appointed to the Charter Revision Board for a one year term beginning May 2, 2017 and ending May 1, 2018 or until his successor has been appointed.

**CIVIL SERVICE BOARD**

Bruce Larkin is appointed to the Civil Service Board for a four year term beginning January 4, 2017 and ending January 3, 2021 or until his successor has been appointed.

**COMMUNITY APPEARANCE BOARD**

Marion Cooper is appointed to the Community Appearance Board for a one year term beginning April 4, 2017 and ending April 3, 2018 or until his successor has been appointed.

**EDUCATION ADVISORY BOARD**

Barbara Signer is appointed to the Education Advisory Board for a one year term beginning May 17, 2017 and ending May 16, 2018 or until her successor has been appointed.

Matthew Arbucci is appointed to the Education Advisory Board for a one year term beginning April 4, 2017 and ending April 3, 2018 or until his successor has been appointed.

Heather Munns is appointed to the Education Advisory Board to complete an unexpired term ending April 15, 2017 or until her successor has been appointed.

Heather Munns is appointed to the Education Advisory Board for a one year term beginning April 16, 2017 and ending April 15, 2018 or

until her successor has been appointed.

**NORTHWEST PROGRESSO FLAGLER HEIGHTS  
REDEVELOPMENT BOARD**

John Hooper is appointed to the Northwest Progresso Flagler Heights Redevelopment Board for a three year term beginning May 22, 2017 and ending May 21, 2020 or until his successor has been appointed.

**HISTORIC PRESERVATION BOARD**

Donna Mergenhagen, George Figler and Marilyn Mammano are appointed to the Historic Preservation Board for three year terms beginning May 21, 2017 and ending May 20, 2020 or until their successors have been appointed.

**INFRASTRUCTURE TASK FORCE COMMITTEE**

Marilyn Mammano has been appointed to the Infrastructure Task Force Committee (Category: Council of Civic Associations representative) for a one year term beginning April 4, 2017 and ending August 20, 2018 or until her successor has been appointed.

Ed Kwoka has been appointed to the Infrastructure Task Force Committee (Category: Fort Lauderdale Chamber of Commerce representative) for a one year term beginning April 4, 2017 and ending August 20, 2018 or until his successor has been appointed.

**PLANNING AND ZONING BOARD**

Alan Tinter is appointed to the Planning and Zoning Board for a three year term beginning June 1, 2017 and ending May 31, 2020 or until his successor has been appointed.

Discussions on individuals to be appointed and reappointed at the next Commission Meeting continued.

Mayor Seiler confirmed that the fully staffed Infrastructure Task Force was now in place. Commissioner Rogers asked City Manager Feldman when the first meeting of the Infrastructure Task Force would take place. Paul Berg, Director of Public Works, and City Manager Feldman confirmed they would call a meeting within the next few weeks, respectful of the upcoming holidays.

**ADOPTED AS AMENDED**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**R-4**      [17-0385](#)

Quasi-Judicial Review of a Plat Application - Plat Known as "Galleria" Located at 2620 E. Sunrise Blvd - Keystone-Florida Property Holding Corp. - Case Number PL14012

Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.

Each City Commission member disclosed their verbal and written communications, site visits, and expert opinions received.

Mayor Seiler noted the email received by the Commission on the request to defer this item.

***A copy of this email is attached to these minutes.***

City Attorney Everett announced the proper procedures to entertain a motion to defer, recommending not to get into the substance of the hearing should it be deferred.

Mayor Seiler stated the Commission has not had an opportunity to discuss the issue of deferral and would hear from the applicant as to the basis for the deferral as well as from those in attendance from the community.

Mayor Seiler recognized Stephen Tillbrook, Esq., Gray Robinson, and on behalf of the applicant Keystone-Florida Property Holding Corp. Mr. Tillbrook gave a brief history of this item to date. He stated there have been ongoing meetings with neighborhoods and they have received additional feedback from those neighborhoods. They are processing the site plan concurrently with Staff and the development is still pending. He is here to request a continuance to allow for both the desires of the Planning and Zoning Board and the Commission to be fulfilled with a concurrent review of the plat and site plan. Mr. Tillbrook stated a 60 day deferral is appropriate, a 30 day deferral would also work, acknowledging the need for a time specific date. Their desire is to bring this project back with community and Staff support. They are here to request a deferral to accomplish these objectives.

Vice Mayor Trantalis stated the City will be getting 3D software to visualize what a buildout of the City would look like based on current conditions and the applied for conditions. He stated in fairness to the applicant, the Commission should have that discussion based on that information, i.e., density issues, prior to considering the applicant's plat application. Vice Mayor Trantalis asked if a 90 day deferral would work for the applicant. Mr. Tillbrook confirmed.

Vice Mayor Trantalis asked City Manager Feldman when Staff would have the new 3D Galleria presentation prepared. City Manager Feldman stated he would have to check with Staff and get

back to the Commission on a specific date. City Manager Feldman expounded on what is involved in the preparation of the presentation.

Vice Mayor Trantalis recommended preparing the necessary data prior to taking the software delivery in order to expedite the process. He also requested the Commission have a preliminary discussion about density in lieu of waiting a year for the software presentation to be prepared. He recommended having a Commission discussion no later than the first meeting in June 2017. Further discussions and comments continued on this topic.

Vice Mayor Trantalis recommended scheduling a lunch meeting with the Planning and Zoning Board to discuss density issues. This would be followed by the applicant coming to the Commission.

Mayor Seiler confirmed the public will be allowed to speak on the deferment of this item.

Mr. Tillbrook reiterated that 30, 60 or 90 days were acceptable to the applicant.

Mayor Seiler recognized Joe Smith, 513 Middle River Drive, who stated the community has been dealing with this for years. Mr. Smith noted his community was not a part of Mr. Tillbrook's recent community outreach.

Mayor Seiler recognized Theo Folz, President of the Corinthian Condominium, who addressed the Commission in opposition to this item. Mr. Folz discussed the previous deferral on this item that was based on the concurrent items of both the site plan and the plat coming before the Commission. Mr. Folz read from his prepared statement, and submitted a copy for the record.

***A copy of Mr. Folz's prepared statement is attached to these minutes.***

Mayor Seiler recognized Joe Slama, 638 Middle River Drive, who stated his agreement with the comments of Mr. Smith and Mr. Folz. Mr. Slama questioned what will be next as a result of the deferral, noting nothing has occurred in six months.

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue, who suggested the applicant submit a model of the proposal and be available for viewing in the lobby of City Hall. This would allow for a clear visual understanding of the proposed project. Regarding a deferral, he agreed with Vice Mayor Trantalis's recommendations on

the need for a visual model. He recommended the Commission give an adequate answer for deferring this item, noting the confusion generated by the current process and the lack of progress. Mr. Rosenthal recommended a better system for these types of matters.

Mayor Seiler recognized Jim Concannon, President, Sunrise Intracoastal Homeowners Association and the Sunrise Intracoastal Community as a whole, who addressed the Commission in opposition to this item. Mr. Concannon agreed with Mr. Slama and Mr. Folz's comments. He reviewed the previous paths of this matter and questioned the new direction regarding deferral. He agreed with Mayor Seiler's previous comments of having a clear understanding of the project. He noted the applicant had good community outreach but there has been no communication with the community since February 14, 2017, stating the community is "in the dark" as to what was going to happen tonight. Mr. Concannon noted the uncertainty that needs to be cleared up prior to proceeding.

Mayor Seiler recognized Courtney Crush, Esq., on behalf of Keystone-Florida Property Holding Corp., who addressed the Commission in support of this item. She stated the applicant's desire to continue to work with the neighbors, noting the summary of the discussion points from the February 14, 2017 meeting that have been exchanged with the community. On March 23, 2017, the response to those summary points and comments were received by the applicant and representatives of the community were making their comments clearer than what was discussed at the Planning and Zoning (P&Z) Board Meeting and at the Holiday Park Meeting. She stated her desire to make this issue crystal clear and get a site plan with the plat before the Commission concurrently and in a reasonable amount of time.

In response to Mayor Seiler's question, Ms. Crush stated Mr. Folz did not attend the February 14, 2017 meeting. There was a meeting arranged by Vice Mayor Trantalis with Mr. Folz on February 6, 2017. She met with Mr. Concannon on February 14, 2017, reiterating the exchange of communications, focusing on the issues about the height of the building, particularly the S-1 building, and the towers on Sunrise Boulevard.

Commissioner Roberts commented on the exchange of comments between the neighborhood and the developer. He stated they are "so far apart it's like night and day" as it relates to both height and density. He stated he would like to move forward as recommended by Staff to deny the plat application.

Ms. Crush commented on the distance between the community and developer stating the internal team is still digesting the comments received from the community. She stated they would not waste the Commission or the neighbor's time, noting it has only been two weeks since receipt of their comments. She requested additional time to work with the community.

Commissioner Roberts reiterated his position, noting the community's desire to discuss both the plat and the site plan tonight and the wide gulf between the community's desires and developer.

Vice Mayor Trantalis discussed the lack of a deadline, stating no one suffers from a delay to make the project better, commenting on possible improvements.

Commissioner Roberts stated due to density and height issues, the applicant needs to "go back to the drawing board" and begin again.

Commissioner Roberts introduced a motion to deny the application. City Attorney Everett gave Mayor Seiler direction on the appropriate procedures to be followed.

Mr. Tillbrook stated the site plan is still out there and likely to come to the Commission at some point in the future. If the plat is highly controversial, they are willing to withdraw the plat and bring it back at a later date, allowing the site plan to move forward. Mr. Tillbrook stated he is considering removing the plat from the agenda tonight.

Ms. Crush stated they are willing to proceed with having the site plan on a Commission agenda in the near future. Mayor Seiler commented on the need to work with the community, stating he has no problem with a deferral or the plat being withdrawn. This project will not go anywhere until the neighborhood is in agreement. Mayor Seiler stated he is not prepared to vote it down tonight. Further discussions and comments continued from the Commission.

City Attorney Everett stated if they are withdrawing the plat application, there is nothing before the Commission.

Ms. Crush confirmed her desire to bring the site plan before the Commission, noting they have been responding and adjusting to the community's comments. She committed to circling back to the community quickly to address their comments.

The site plan going back to the P&Z Board was discussed. Mayor Seiler clarified that the ***P&Z Board vote on the site plan was 6-2 in***



***opposition. The P&Z Board vote on the plat was 7-1 in favor, with numerous conditions on the allocation of flex units.***

Mayor Seiler suggested deferring this item, noting Commission Roberts consistency in his position.

Commissioner Rogers concurred with Mayor Seiler, that the conversations should continue if both parties are willing, noting his concerns.

Mayor Seiler acknowledged the efforts of all stakeholders involved in this effort. He asked Ms. Crush and Mr. Tillbrook to advise the Commission should an agreement with the community not be reached.

In response to Mayor Seiler's question, Ella Parker, Urban Design and Development Manager, stated a determination by Staff would need to be made as to whether the plat and site plan should go back before P&Z Board. This would depend upon the changes. It would be likely this would go back before the P&Z Board due to the high level of public participation process as part of the ordinance to allow them the opportunity to make a new recommendation.

Commissioner Rogers proposed a deferral. Mayor Seiler asked the community representatives if the dates of June 6, 2017, or June 20, 2017 worked for their schedules. They confirmed.

Mayor Seiler recommended this item be deferred to June 6, 2017, unless Staff determines beforehand and to be confirmed on May 16, 2017 by Staff through the City Manager, as to whether this item must go back before the P&Z Board.

Mayor Seiler reiterated the need for the applicant to sit down with the community to determine if there is any common ground that can be reached on this project.

Mayor Seiler recognized Assistant City D'Wayne Spence who discussed the proper procedure. He stated the plat issue needs to be taken up at the June 6, 2017 meeting if it is deferred tonight. It may be deferred again, noting it is a separate process.

Commissioner Rogers made a motion to defer this item to the June 6, 2017 City Commission Meeting with a report to the Commission by the Department of Sustainable Development through the City Manager at the May 16, 2017 Commission Meeting about the need for this item to go back before the P&Z Board. The motion was seconded by Vice Mayor Trantalis.

**Deferred to June 6, 2017**

**Aye:** 3 - Vice Mayor Trantalis, Commissioner Rogers and Mayor Seiler

**Nay:** 2 - Vice Mayor Roberts and Commissioner McKinzie

**ORDINANCE FIRST READING****OFR-1 [17-0441](#)**

Ordinance Amending Article X, Vacation Rentals, Chapter 15 of the Code of Ordinances of the City of Fort Lauderdale

Mayor Seiler emphasized that the legislation in Tallahassee would preempt the City regarding its position on vacation issues and the importance of residents contacting their state representatives.

Vice Mayor Trantalis noted this Code amendment reduces the amount of the application fee for owners who maintain occupancy while having vacation rental guests. He questioned how it would be enforced. Mayor Seiler noted neighbors who report non-owner occupied vacation rentals would be the avenue for enforcement.

Mayor Seiler commented on issues experienced by Jerry and Suzee Bailey, 105 Nurmi Drive, due to vacation rentals in their neighborhood. He noted he had spoken with Police Chief Maglione on this incident.

Mayor Seiler recognized Trisha Halliday, who read Suzee Bailey's comments into the record.

***A copy of Ms. Bailey's comments are attached to these minutes.***

Mayor Seiler recognized Charlotte Rodstrom, 66 Nurmi Drive and President of the Nurmi Isles Homeowners Association, who noted they have joined the Lauderdale Beach Group and the Harbor Inlet Group in trying to communicate their opposition to State legislators on Senate Bill 188 and House Bill 125. She commented on the Commission passing a previous Walk-On resolution that does not specifically address vacation rentals, noting their desire for the Commission to pass a resolution in opposition to Senate Bill 188 and House Bill 125 that specifically focuses on vacation rentals.

Mayor Seiler reiterated his communications with State representatives regarding the City's opposition to Senate Bill 188 and House Bill 125.

Mayor Seiler recognized Charles King, 105, N. Victoria Park Road, who questioned State Representative Lauren Book's position on this issue. He commented on his feelings and the history of this matter.

Mayor Seiler recognized Kristen Maus, 1778 SE 25th Avenue, noting this is an exploding issue in her neighborhood, citing examples and requesting the Commission to regulate it as much as possible in order to preserve communities.

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue, who spoke in support of the Commission acting on this item in order to prevent situations similar to those occurring in Miami Beach. He stated this is an opportunity for the Commission to improve the community.

Mayor Seiler commented there are 334 registered vacation rental homes in the City, noting progress is being made in this area.

Commissioner Rogers introduced the Ordinance on First Reading which the City Clerk read by title only.

**PASSED FIRST READING**

**Aye:** 4 - Commissioner Roberts, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**Nay:** 1 - Vice Mayor Trantalis

**ORDINANCE SECOND READING**

**OSR-1** [17-0417](#)

Ordinance Creating Section 28-174, Code of Ordinances of the City of Fort Lauderdale, Authorizing the City Manager or the City Manager's Designee to Grant a One-Time Billing Adjustment for Unexplained Water Consumption on an Account with Water, Wastewater, or Sprinkling Service

Vice Mayor Trantalis introduced the Ordinance on Second Reading which the City Clerk read by title only.

**ADOPTED ON SECOND READING**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**OSR-2** [17-0452](#)

Ordinance Amending Chapter 14, "Floodplain Management," of the Code of Ordinances of the City of Fort Lauderdale to Revise the Definition for Substantial Improvement

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue, who referenced an article in the Sun Sentinel by Brittany Waldman addressing issues regarding improvements made to existing homes in certain price ranges and how this item will remedy the issue.

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, commented on his support of this item and on other issues in the City.

Commissioner Roberts introduced the Ordinance on Second Reading which the City Clerk read by title only.

**ADOPTED ON SECOND READING**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**RESOLUTIONS CONTINUED**

**R-5      [17-0472](#)      Appointment of Vice Mayor**

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who commented on his opposition to this item.

Vice Mayor Trantalis commented on the rotation and next year's vice mayor appointment.

Commissioner Rogers introduced this item and was read by title only.

**ADOPTED - Appointing Bruce G. Roberts as Vice Mayor**

**Aye:** 5 - Commissioner Roberts, Vice Mayor Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**R-2      [17-0213](#)      Resolution Approving the Disposal of City-Owned Surplus Property Located at 2941 NW 19th Street**

Commissioner Trantalis introduced this item and was read by title only.

**ADOPTED**

**Aye:** 5 - Vice Mayor Roberts, Commissioner Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler

**R-3      [17-0394](#)      Resolution Creating the Infrastructure Task Force**

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who spoke in support of allowing renters to be members of the Infrastructure Task Force.

Commissioner Trantalis suggested that residency be a requirement for membership rather than being a property owner.

Mayor Seiler reiterated his position of requiring members of the Infrastructure Task Force be property owners in the City.

Vice Mayor Roberts suggested the Commission discuss all of the Commission's Boards and Committees in a broader scope and defer Commissioner Trantalis's recommendation. Further discussions ensued.

**REMOVED FROM AGENDA**

**EXECUTIVE CLOSED DOOR REQUEST**

Mayor Seiler recognized City Attorney Cynthia Everett who stated, pursuant to Florida Statute, Section 286.011(8)(a), she will be seeking advice on the matters of:

Perry Wood v. City Of Fort Lauderdale, Dellica Harris, Krystle Smith, Timothy Shields And Matthew Porterfield, Case No. CACE 15-015075 (14)

Christine D'onofrio v. City of Fort Lauderdale, Case No. CACE 16-004368 (12)

**During the City Commission Meeting on April 19, 2017 at a time to be determined.**

Present at the attorney-client session will be:

Mayor, John P. "Jack" Seiler  
Vice Mayor, Dean J. Trantalis  
Commissioner, Robert L. McKinzie  
Commissioner, Bruce G. Roberts  
Commissioner, Romney Rogers  
City Manager, Lee R. Feldman  
City Attorney, Cynthia A. Everett

Re.: Perry Wood v. City Of Fort Lauderdale, et al., Outside Counsel will be Robert H. Schwartz, Esq., of McIntosh Schwartz, P.L.,

Re.: Christine D'onofrio v. City of Fort Lauderdale, Outside Counsel will be Jeffery R. Lawley, Esq. of Billing, Cochran, Lyles, Mauro & Ramsey, P.A.; and a Certified Court Reporter with Daughters Reporting, Inc.


The estimated length of this attorney-client session is approximately thirty (30) minutes.

## ADJOURNMENT

There being no further business before the City Commission at the Regular Meeting of April 4, 2017, Mayor Seiler adjourned the meeting at 11:00 p.m.

  
\_\_\_\_\_  
John P. "Jack" Seiler  
Mayor

ATTEST:

  
\_\_\_\_\_  
Jeffrey A. Modarelli  
City Clerk

Pres-1 Canada

<https://www.youtube.com/watch?v=P18tPkgXCQ>

THE STORY  
OF  
FORT LAUDERDALE

1793 - 1955

by  
PHILIP J. WEIDLING  
and  
AUGUST BURGHARD



*University of Florida Press - Gainesville - 1966*

The D. C. Alexanders, with their young daughter Betty Lou, had returned from Ohio to reopen the house they had built on the ocean in their almost sold-out Las Olas-by-the-Sea. When they arrived they took delivery on a brand-new Chrysler sedan, drove it home, and put it in the basement garage. That afternoon, September 17, 1926, Mrs. Alexander, while watching her servant clean windows, noticed gusts of wind becoming stronger and more frequent. The sky was a sodden heavy gray. But, busy with house cleaning, she paid little attention to the weather. Home radios were not commonplace and such a thing as a hurricane did not enter her mind.

As the Alexanders sat down to their evening meal they realized that the intensity of the storm was increasing. They were still up at midnight, listening to the wind howling and shrieking about the house, when abruptly the electric power went off. Soon they heard glass breaking. Thirty-four of the thirty-six windows in the house blew out. The front door burst open and swung violently on its hinges, the doorknob knocking a large hole in the plaster wall. Rain and sand swept through the downstairs. "We'd better get out of here," said Mr. Alexander's father. The homeowner grimly pointed out a window. Water had risen above the level of the ground and no land was in sight. Only the tops of wildly swaying trees and a few roof tops were visible. Leaving the house was out of the question. The family went upstairs and found Betty Lou's room still comparatively dry. They waited there for what might happen. Daylight came with sullen reluctance and winds still blew strongly

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though now from the opposite direction and subsiding. The house had stood. It and its furnishings were badly damaged, but it withstood the hundred and twenty-mile wind without structural damage. The Alexander's beach tennis court was buried under several feet of sand.



**BAHIA MAR**  
**PROPOSED FORM OF MOTION**  
**CAM 17-0449**

I move that the City Commission authorize Rahn Bahia Mar, LLC. to submit development permit applications relating to improvements to the Bahia Mar Property, except that such authorization shall not be construed as consent by the City Commission to major alterations, changes or additions to the leased Property required by Article 24.0 of the Bahia Mar Lease, or approval by the City Commission of the underlying project or proposed development, or a grant to Rahn Bahia Mar LLC of the City Commission powers of approval, whether in its quasi-judicial, police, regulatory or proprietary capacity, over the proposed project.

# Memorandum

No. 08-657

## City Attorney's Office

To: Greg Brewton, Director / Planning & Zoning  
Wayne Jessup, Asst. Director / Planning & Zoning

From: Robert B. Dunckel, Assistant City Attorney/5036. ?J>t>)

Date: July 2, 2008

Re: Bahia Mar Lease

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Certain questions have arisen lately with regard to Bahia Mar's proposed development of approximately 52,000 square feet of improvements on the property.

I am transmitting to you at this time a copy of the Amended and Restated Lease Agreement between the City of Fort Lauderdale and "Bahia Mar".

I draw your attention to Article 24.0, Alterations and Additions. There may be need for you to consult this Lease Agreement from time-to-time in the future.

Incidentally, in conjunction with any reviews that Bahia Mar may seek, please make arrangements to supply me with a copy of the survey submitted with such review applications, so that I may incorporate it into our files.

L:\RBD\memos\2008\657GB.DOC

Attachment

cc: Kathleen Gunn, Asst. City Manager  
Ella Parker, Planner II  
Vivian Law, Secretary III

→ RAHN PROPERTIES  
1512 E. B. WARD BLVD  
(301)  
FT. LAUD, FL.  
33301

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AMENDED AND RESTATED  
LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT is made and entered into at Fort Lauderdale, Broward County, Florida, this 4th day of January, 1995, by and between:

CITY OF PORT LAUDERDALE, a municipal corporation of Florida, hereinafter referred to and identified as the LESSOR, or the CITY,

and

RAHN BAHIA MAR, LTD., a Florida Limited Partnership, hereinafter referred to and identified as the LESSEE

(The use herein of the plural shall include the singular, and the use of the singular shall include the plural; the use of the masculine gender shall include all genders, and the use of the neuter gender shall include all genders; the use of the words "LESSOR" and "LESSEE" shall include their heirs, representatives, successors, grantees and assigns.)

PREAMBLE

WHEREAS, the City of Fort Lauderdale, as LESSOR, and Fort Lauderdale candlelight Corporation, as predecessor in interest to the current LESSEE, entered into that certain Lease dated September 1, 1962, recorded in Official Records Book 2870, at Pages 530-581 of the Public Records of Broward County, Florida, as amended by instrument dated September 1, 1964, recorded in Official Records Book 2870, at Pages 582 to 583 of the Public Records of Broward County, Florida; as amended by an instrument entitled Modification of Lease Agreement dated December 7, 1971, recorded in Official Records Book 5080, at Pages 845 to 849 of the Public Record of Broward County, Florida; and further amended by that certain Amendment to Lease dated April 22, 1980, recorded in Official Records Book 8958, at Pages 334 to 338 of the Public Records of Broward County, Florida; and as assigned by that certain Assignment of Lease dated August 14, 1980, recorded in Official Records Book 9066, at Page 472 of the Public Records of Broward County, Florida; and further assigned by that certain Assignment of Lease dated May 12, 1982, recorded in Official Records Book 10204, Page 761 to 764 of the Public Records of Broward County, Florida; and further assigned to the current LESSEE in that certain Consent to Assignment of Leasehold Interest and Assignment and

Assumption of Leasehold Interest dated as of June 30, 1994, and recorded of even date herewith among the Public Records of Broward county, Florida (all of which are referred to herein as the "Lease") and which Lease is for the Property described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, the parties desire to amend certain provisions of the Lease as set forth herein and provide for certain improvements to the leased premises; and

WHEREAS, such improvements, if constructed, should increase the gross revenues generated on the leased property, thereby affording additional revenues to the Lessor under the terms of the Lease during the balance of the leasehold term; and

WHEREAS, LESSOR and LESSEE by this amendment are desirous of consolidating all prior and present amendments to the Lease in one document by establishing an Amended and Restated Lease Agreement without terminating the aforementioned Lease; and

WHEREAS, by Resolution No. 95-1, adopted at its meeting of January 4, 1995, the City Commission of LESSOR authorized the construction of the improvements, pursuant to the terms hereof, and the execution of this Amended and Restated Lease Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein and TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree that by virtue of the representations herein made, and not otherwise, the LESSOR does hereby lease and let to the LESSEE the Property described in Exhibit "A" attached hereto and the parties agree that the terms, conditions covenants and agreements of this Amended and Restated Lease Agreement are as follows:

#### ARTICLE 1.0

##### Mutual Representations and warranties

The parties hereto mutually represent, warrant and disclose to each other the following:

Section 1. The LESSOR is a municipal corporation organized and existing pursuant to Chapter 57-1322, Special Acts of 1957, Vol. II, Part I, at page 1043 (effective May 6, 1957) as of September 1, 1962 (hereinafter, Statutory Charter). The Statutory Charter was repealed by operation of City of Fort Lauderdale Ordinance No. C-84-87, adopted on second reading on October 2, 1984 and by a referendum vote of the electorate on November 11, 1984 (hereinafter, Charter).

Section 2. On August 29, 1947, there was executed and delivered to the LESSOR by the United States of America a deed conveying to the LESSOR certain lands situated within the territorial limits of the CITY; known as Coast Guard Base No. 6, which deed of conveyance is recorded in Deed Book 604, Page 529, of

the public records of Broward County, Florida. The Property embraced in this lease, as shown on Exhibit "A" hereto attached, constitutes a portion of the said property thus acquired by the LESSOR. The said Property was acquired and is held by the LESSOR in its proprietary capacity.

Section 3. On November 1, 1948, the LESSOR adopted Resolution No. 3471 (hereinafter called the Bond Resolution), authorizing the issuance of \$2,500,000 Municipal Recreation Revenue Bonds (hereinafter called Revenue Bonds), to be dated September 1, 1948. On November 1, 1948, proceedings were brought by the CITY in the Circuit Court in and for Broward County, Florida, to validate said Revenue Bonds (Chancery Cause No. 13,999). On November 22, 1948, a decree of validation was affirmed by the Supreme Court of the State of Florida on December 21, 1948 (Schmeller vs. City of Fort Lauderdale, 38 So.2d 36).

Section 4. Out of the proceeds of the sale of the said Revenue Bonds, there was constructed upon said property thus acquired by the CITY certain improvements, and the said property ever since December 1, 1949, has been devoted by the CITY to the purposes described in said Bond Resolution. Various problems relating to said undertakings were in issue and concluded by decrees rendered in Chancery Cause No. 15,108, Broward County, Florida, and the decision of the Supreme Court of Florida, reported in 51 So. 2d 429.

Section 5. All steps, acts and conditions required by the Charter of the CITY to be done as a condition precedent to the execution of the Lease and this Amended and Restated Lease Agreement (which collectively shall hereinafter be referred to as the "Lease"), have been done, and the CITY has full authority to enter into this Lease.

Section 6. The LESSEE represents and warrants unto the LESSOR that it has adequate financial capacity and technical and business skill and ability to perform all obligations herein imposed upon the LESSEE to diligently, skillfully and successfully operate the lease premises in order that the same may be operated in its greatest potential revenue producing capacity.

Section 7. The parties hereto mutually represent and warrant unto each other that this indenture constitutes the final repository of all agreements of the parties relating hereto, and that there are no other verbal representations, warranties or agreements or conditions.

#### ARTICLE 1.1

##### Defined Terms

The following terms, as used and referred to herein, shall have the meaning as set forth below:

(a) Affiliate or Affiliated Person means, when used with reference to a specified Person:

(i) any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the specified Person;

(ii) any Person that is an officer of, partner in, or trustee of, or serves in a similar capacity with respect to the specified Person or of which the specified person is an officer, partner, or trustee, or with respect to which the specified Person serves in a similar capacity;

(iii) any Person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of, or otherwise has a substantial beneficial interest (10% or more) in the specified Person, or of which the specified Person is directly or indirectly the owner of 10% or more of any class of equity securities, or in which the specified Person has a substantial beneficial interest (10% or more); and

(iv) any relative or spouse of the specified Person.

(b) Allowances means and refers to rebates and overcharges of revenue not known at the time of sale, but adjusted at a subsequent date. Allowances also include revenue foregone as a result of hotel promotions or complimentary services, and the write-off of uncollectible accounts receivable.

(c) Beneficial Owner means any Person who, directly or indirectly, owns or holds 10% or more of any class of equity securities of, or otherwise has a substantial beneficial interest (10% or more) in the specified Person, or of which the specified Person is directly or indirectly the owner of 10% or more of any class of equity securities, or in which the specified Person has a substantial beneficial interest (10% or more).

(d) Capital Improvements means those items deemed to be capital improvements pursuant to Generally Accepted Accounting Principles for hotel accounting.

(e) Concessions means and refers to minor or incidental sales of goods and services to hotel and marina guests provided by third party Non-Affiliated Persons. The sources of revenue referred to in Article 26.0, Subsection 3. A. (5) shall not be deemed to constitute Concessions.

(f) Environmental Agency means a governmental agency at any level of government having jurisdiction over Hazardous Substances and Hazardous Substances Laws and the term as used herein shall also include a court of competent jurisdiction when used as a forum for enforcement or interpretation of Hazardous Substances Laws.

(g) Hazardous Substances means any hazardous or toxic substances, materials or wastes, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) as now in effect or as same may be

amended from time to time, or such substances, materials and wastes which are now or hereafter become regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated byphenyls, (iv) radon, (v) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251, et. seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317), (vi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq. (42 U.S.C. Section 6903), (vii) defined as "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et. seq. (42 U.S.C. Section 9601), or (viii) designated as a "hazardous substance" as defined in Chapter 403 (Part IV) of the Florida Statutes.

(h) Leasehold Mortgagee means a Federal or State bank, savings bank, association, savings and loan association, trust company, family estate or foundation, insurance company, pension fund, or similar institution authorized to make mortgage loans in the State of Florida.

(i) Leasehold Mortgagee Assignee means the assignee of a Leasehold Mortgagee as to the leasehold interest represented by the Lease following the acquisition of such leasehold interest by the Leasehold Mortgagee by virtue of a foreclosure action or deed-in-lieu of foreclosure or similar proceeding or transaction.

(j) Limitation on Net Income Rule means that where Annual Gross Operating Revenues are predicated on a "net income formula" for any given function, that the allowable deductible expenses under such formula shall in no event exceed the gross revenues from that function and that no deficit of expenses over gross revenues shall be carried over from one lease year to another.

(k) Non-Affiliated Person means a Person who is neither an Affiliate of Lessee, nor an Affiliate of any Beneficial Owner in Lessee, nor an Affiliate of any Leasehold Mortgagee nor an Affiliate of any Beneficial Owner of a Leasehold Mortgagee.

(l) Person means any individual, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or association, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee or other person acting in a similar representative capacity for or on behalf of such Person.

(m) Property means that real estate described in Exhibit A attached hereto, including any portion thereof.

(n) Renovation Period means the period from July 1, 1994 through February 28, 1995.

(o) Second Extended Term means the extension of the lease

term by, through and under this Amendment and Restatement, with such extended term being from October 1, 2037 through August 31, 2062 as more particularly set forth in this Amendment and Restatement of Article 2.0 of the Lease.

## ARTICLE 2.0

### Term

Section 1. This Lease shall begin at twelve o'clock noon, Eastern Standard Time, on the 1st day of September, 1962, and continue for a period of fifty (50) years thereafter, unless sooner terminated, whereupon said premises shall be returned to LESSOR free of any encumbrances or obligations hereinafter incurred. 2012

Section 2. The term of this Lease is hereby extended until midnight, September 30, 2037 (a period of twenty-five (25) years and thirty (30) days in addition to the original term), unless the Lease is sooner terminated pursuant to the provisions of the Lease and its amendments.

Section 3. The term of this Lease is hereby extended for an additional period commencing October 1, 2037 through and including August 31, 2062 ("Second Extended Term"), unless the Lease is sooner terminated pursuant to the provisions of this Lease.

Section 4. In all events, at termination the leased premises shall be returned to LESSOR free of any encumbrances or obligations hereinafter incurred.

## ARTICLE 3.0

### Possession

Delivery of possession of the leased premises to the LESSEE shall be made as of this date in order to permit the LESSEE to make improvements and rehabilitate the demised premises so that the LESSEE may carry on and conduct its business.

## ARTICLE 4.0

### Compliance with Regulations of Public Bodies

The LESSEE covenants and agrees that it will, at its own cost, make such improvements on the premises and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over said property, in order to comply with sanitary requirements, fire hazard requirements, zoning requirements, setback requirements, environmental requirements and other similar requirements designed to protect the public.



## ARTICLE 4.1

### Hazardous Substances

LESSEE covenants and agrees to the following terms and conditions relating to Hazardous Substances and the use of the demised premises:

Section 1. LESSOR'S Consent Required. LESSEE covenants and agrees that in the use of the demised premises no Hazardous Substances shall be brought upon or kept or used in or about the demised premises by any Person whomsoever, unless LESSEE first obtains the written consent of LESSOR. LESSOR does hereby consent to the use of those Hazardous Substances reasonably and normally used for the purposes of the operation of a hotel and marina. LESSOR hereby waives the requirement for its consent as to other uses for existing subtenants for the remainder of their present lease terms.

Section 2. Compliance with Environmental Laws. During the Lease term as extended, LESSEE shall have absolute responsibility to ensure that the demised premises are used at all times and all operations or activities conducted thereupon are in compliance with all local, state and federal laws, ordinances, regulations and orders (collectively, "Hazardous Substances Laws"), as same may now exist or may from time to time be amended, relating to industrial hygiene, environmental protection and/or regulation, or the use, analysis, generation, manufacture, storage, disposal or transportation of any Hazardous Substances. Any LESSEE shall be absolutely liable to LESSOR for any violation of Hazardous Substances Law during the term of that respective LESSEE'S leasehold interest in the demised premises. Notwithstanding the foregoing, LESSOR acknowledges that LESSEE shall not be responsible to the LESSOR for any violation of Hazardous Substances Laws which occurred prior to the current LESSEE'S assumption of the leasehold interest in the demised premises. In connection therewith, LESSEE has provided those environmental reports described in Exhibit "B" hereto ("Environmental Baseline"), which Environmental Baseline should be deemed to describe the status of the Property as of the date Rahn Bahia Mar, Ltd. assumed the Lease and which such Environmental Baseline is on file in the City of Fort Lauderdale's Office of City Engineer.

Section 3. Hazardous Substances Handling. LESSEE covenants and agrees that it is responsible to the LESSOR to ensure that any and all activities conducted upon the demised premises by a Person (other than the LESSOR) be conducted only in compliance with all Hazardous Substances Laws and all conditions of any and all permits, licenses and other Environmental Agency approvals required for any such activity conducted upon the demised premises. LESSEE covenants that any and all Hazardous Substances removed from the demised premises shall be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposition of such Hazardous Substances and wastes and only in accordance with Hazardous Substances Laws and consistent with all conditions of any and all permits, licenses and other Environmental Agency approvals required for such removal and transportation. LESSEE covenants that

in any and all activities conducted upon the demised premises by any Person whomsoever that Hazardous Substances shall be handled, treated, dealt with and managed in conformity with all applicable Hazardous Substances Laws and prudent industry practices regarding management of such Hazardous Substances. Upon expiration or earlier termination of the term of the Lease, each LESSEE shall cause all Hazardous Substances which are brought upon the demised premises by any Person whomsoever (other than LESSOR) during the term of that respective LESSEE'S leasehold interest in the demised premises, from and after the date of this Amendment and Restatement, to be removed from the demised premises and to be transported for use, storage or disposal in accordance and compliance with all applicable Hazardous Substances Laws; provided, however, that LESSEE shall not take any remedial action in response to the presence of Hazardous Substances in or about the demised premises, nor enter into any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Substances Laws in any way connected with the demised premises, without first notifying LESSOR of LESSEE'S intention to do so and affording LESSOR reasonable opportunity to appear, intervene, or otherwise appropriately assert and protect LESSOR'S interest with respect thereto.

**Section 4. Notices.** If at any time LESSEE shall become aware, or have reasonable cause to believe, that any Hazardous Substance has come to be located on or beneath the demised premises, LESSEE shall immediately upon discovering such presence or suspected presence of the Hazardous Substance give written notice of that condition to LESSOR. In addition, LESSEE shall immediately notify LESSOR in writing of (i) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed, or threatened pursuant to any Hazardous Substances Laws, (ii) any written claim made or threatened by any Person against LESSEE, the demised premises or improvements located thereon relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Substances, and (iii) any reports made to any Environmental Agency arising out of or in connection with any Hazardous Substances in or removed from the demised premises or any improvements located thereon, including any complaints, notices, warnings or asserted violations in connection therewith. LESSEE shall also supply to LESSOR as promptly as possible, and in any event, within five (5) business days after LESSEE first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the demised premises or improvements located thereon or LESSEE'S use thereof.

**Section 5. Reports and Test Results Supplied to LESSOR.** LESSEE agrees to provide a copy of all environmental and Hazardous Substance reports and test results dealing with the demised premises to the LESSOR within a reasonable time following LESSEE'S receipt of same.

**Section 6. Hazardous Substances Indemnification of LESSOR.** LESSEE shall indemnify, defend, and hold LESSOR harmless of and from all claims, demands, fines, penalties, causes of action, liabilities, damages, losses, costs and expenses (including reasonable attorneys' fees and experts' fees), which LESSOR may sustain, (unless any of the foregoing was caused by LESSOR'S negligence or willful

misconduct or that of LESSOR'S agents, employees, contractors, subcontractors or licensees), occurring during the term of that LESSEE'S leasehold interest in the demised premises. This indemnification shall survive the termination of this Lease.

(a) In addition, and not in limitation of the foregoing, LESSEE shall indemnify, defend and hold LESSOR harmless from and against any all claims, demands, suits, losses, damages, assessments, fines, penalties, costs or other expenses (including attorney's fees, experts' fees and court costs) arising from or in any way related to, damage to the environment, costs of investigation charged by Environmental Agencies, personal injury or debt, or damage to property, due to a release of Hazardous Substances on or under the demised premises or in the surface or groundwater located on or under the demised premises, or gaseous emissions (excluding methane, radon, and other naturally occurring gases) from the demised premises or any other condition existing on the demised premises, resulting from Hazardous Substances where any of the foregoing occurred during the term of that Lessee's leasehold interest in the demised premises. LESSEE further agrees that its indemnification obligations shall include, but are not limited to, liability for damages resulting from the personal injury or death of an employee of the LESSEE, regardless of whether LESSEE has paid the employee under the Worker's Compensation laws of the State of Florida, or other similar federal or state legislation for the protection of employees. The term "property damage" as used in this Article includes, but is not limited to, damage to the property of the LESSEE, LESSOR, and of any third parties caused by LESSEE and shall include any remedial activities performed by a government agency (including LESSOR), or by LESSEE pursuant to directives from a government agency or court order.

(b) Further, LESSEE shall indemnify, defend and hold LESSOR harmless from and against all liability, including, but not limited to, all damages directly arising out of the use, generation, storage or disposal of Hazardous Substances which occurred during the term of that LESSEE'S leasehold interest in the demised premises, including, without limitation, the cost of any required or necessary inspection, required by law, audit, clean up required by law, or detoxification required by law and the preparation of any closure or other required plans, consent orders, license applications, or the like, whether such action is required by law or not, to the full extent that such action is attributable to the use, generation, storage or disposal of Hazardous Substances on the Property during the term of that LESSEE'S leasehold interest in the demised premises, and all fines and penalties associated with any of the foregoing.

(c) LESSEE agrees that its foregoing obligation to indemnify, defend and hold LESSOR harmless extends to and includes all reasonable attorney's fees, experts' fees and costs incurred in the defense of any of the foregoing claims or demands as well as indemnifying LESSOR for any and all reasonable attorneys' fees, experts' fees and costs incurred by LESSOR in LESSOR'S enforcement of the provision of this Article respecting Hazardous Substances. The indemnifications provided in this Lease shall survive the termination of this Lease, but shall end, with respect to any claim or cause of action, with the expiration of any applicable statute of limitations for such claim or cause of action.

Section 7. LESSOR'S Right of Entry for Testing. At any time during the term of the Lease, the LESSOR may, upon reasonable prior written notice to the LESSEE (taking into account the potential for disruption of the operation of the hotel and marina, particularly during the tourist season), enter upon the demised premises for the purpose of conducting environmental tests ("LESSOR'S Tests") to determine the presence and extent of contamination by Hazardous Substances on or under the demised premises. The LESSOR shall not be entitled to conduct the LESSOR'S Tests unless: (1) a governmental entity (other than the LESSOR) shall have issued a notice of violation to the LESSEE with respect to Hazardous Substances on, within, or under the demised premises; or (2) the LESSOR has probable cause to believe that the LESSEE has violated Hazardous Substances Laws relating to the LESSEE'S use of the demised premises. Notwithstanding the limitations set forth in number (1) and number (2) above, the LESSOR may conduct LESSOR'S tests no less often than every five years without being subject to the limitations set forth as (1) and (2) above.

(a) The LESSOR'S Tests shall be at the sole cost of the LESSOR. The cost and expenses relating to the LESSOR'S Tests shall not be included in the scope of any indemnification provided in favor of the LESSOR in this Lease. No LESSOR Tests shall be conducted until the LESSOR has provided to the LESSEE the name of the testing contractor (which shall be fully licensed to conduct the LESSOR Tests) and a certificate of insurance with limits reasonably acceptable to the LESSEE confirming that the LESSEE is an additional insured and that coverage exists for property damage, personal injury and business interruption which may result from the LESSOR'S Tests. The LESSOR agrees to indemnify and hold the LESSEE harmless with respect to any loss, claim or damage (including attorney's fees and expenses) which the LESSEE shall suffer as the result of the conduct of the LESSOR'S Tests.

Section 8. Petroleum Liability and Restoration Insurance Program. During the term of this Lease, the LESSEE shall, so long as coverage is available and the State of Florida maintains the Petroleum Liability and Restoration Insurance Program and the Inland Protection Trust Fund, maintain in effect the Petroleum Liability and Restoration Insurance Program Coverage for Third Party Liability for Contamination described on Exhibit "C" attached hereto.

Section 9. Environmental Assessments; Consent to Assignment. Any provision herein to the contrary notwithstanding, LESSEE, LESSEE'S proposed assignee, Leasehold Mortgagee or Leasehold Mortgagee Assignee, whichever the case may be, shall, at its own cost and expense, furnish to LESSOR a complete Phase I & Phase II Environmental Assessment of the Property, performed by environmental experts reasonably found qualified by LESSOR, as a condition precedent to LESSOR'S consent to an assignment of the leasehold interest. The Environmental Assessment shall include a qualitative and quantitative analysis of the presence of Hazardous Substances on, within or below the Property. LESSOR may withhold consent to the assignment of the Leasehold interest until security is posted with LESSOR which is reasonably deemed by Lessor to be adequate to cover the costs of any legally required clean-up, detoxification or remediation of the

Property from the presence of Hazardous Substances in excess of the Environmental Baseline upon, within or below the Property and any and all fines or penalties associated therewith. The foregoing is collectively referred to as the "Environmental Procedure."

Section 10. Periodic Environmental Procedure. In addition to the requirement in Section 9 of this Article, for the Environmental Procedure to be performed as a condition precedent to the LESSOR'S consent to any assignment of this Lease, the LESSEE shall, periodically, as set forth herein, perform the Environmental Procedure for the benefit of the LESSOR as follows: (i) 15 years prior to the termination of the Lease (August 31, 2047); (ii) 9 years prior to the termination of the Lease (August 31, 2053); and (iii) 2 years prior to the termination of the Lease (August 31, 2060). The foregoing are referred to as the "Periodic Environmental Procedure". In each case, the Periodic Environmental Assessments are such that the Phase I & Phase II Environmental Assessments are delivered to the LESSOR not later than 45 days subsequent to the due date for each Periodic Environmental Procedure. At the time of each Periodic Environmental Procedure, the LESSEE shall comply with the remediation, clean-up and security requirements as set forth in the Environmental Procedure.

#### ARTICLE 5.0

##### Indemnity Against Costs and Charges

The LESSEE shall be liable to the LESSOR for all costs, expenses, attorneys' fees and damages which may be incurred or sustained by the LESSOR by reason of the LESSEE'S breach of any of the provisions of this indenture. Any sums due the LESSOR under the provisions of this Article shall constitute a lien against the interest of the LESSEE in the leased premises and all his property situated thereon to the same extent and on the same condition as delinquent rent would constitute a lien on said premises and property.

#### ARTICLE 6.0

##### Indemnification Against Claims

The LESSEE shall indemnify and save harmless the LESSOR from and against any and all claims, arising during the term of this Lease, for any personal injury, loss of life and damage to property sustained in, or about, the demised premises, or to the buildings; and improvements, and improvements placed thereon, or the appurtenances thereto or upon the adjacent sidewalks or streets, and from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claim, the investigation thereof, or the defense of any action, or proceeding, brought thereon; and from and against any orders, judgments and decrees, which may be entered therein.

## ARTICLE 7.0

### Inspection

The LESSOR or its agents shall have the right to enter the leased premises and the buildings and improvements constructed thereon, at all reasonable hours for the purpose of inspecting the same, or for any other purposes not inconsistent with the terms or spirit of this Lease.

## ARTICLE 8.0

### Acceleration

If any of the sums of money herein required to be paid by the LESSEE to the LESSOR shall remain unpaid for a period of sixty days, then written notice in accordance with Article 30.0, Notices, to the LESSEE, with copies to the appropriate mortgagees or mortgagees, shall be given allowing thirty days from the date of said notice to correct default, and if not so corrected then the LESSOR shall have the option and privilege as follows:

Section 1. To accelerate the maturity of the rent installments for the balance of the term. This option shall be exercised by an instrument in writing signed by the LESSOR, or its agents, and transmitted to the LESSEE notifying him of the intention of the LESSOR to declare all unmatured rent installments as presently due and payable.

Section 2. In lieu of the option in Section 1, the LESSOR may in like manner declare as presently due and payable the unpaid rent installments for such a period of years as may be fixed in the LESSOR'S said notice to the LESSEE. The exercise of this option shall not be construed as a splitting of a cause of action, nor shall it alter or affect the obligations of the LESSEE to pay rent under the terms of this lease for the period unaffected by said notice.

Section 3. In addition to the options herein granted (Sections 1 and 2 above), the LESSOR may exercise any or all other options available to it hereunder, which options may be exercised concurrently or separately with the exercise of the options contained in Sections 1 and 2 of this Article.

## ARTICLE 9.0

### No Liens Created by Lessee

The LESSEE covenants and agrees that it has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title and interest of the LESSOR in and to the Property covered by this Lease, and that no Person shall ever be entitled to any lien, directly or indirectly derived through or under the LESSEE, or his agents or servants, or on account of any act or omission of said LESSEE, which lien shall be superior to the

lien of this lease reserved to the LESSOR upon the leased premises. All Persons contracting with the LESSEE, or furnishing materials or labor to said LESSEE, or to his agents or servants, as well as all Persons whomsoever, shall be bound by this provision of this Lease. Should any such lien be filed, the LESSEE shall discharge the same within ninety days thereafter, by paying the same or by filing a bond, or otherwise, as permitted by law. The LESSEE shall not be deemed to be the agent of the LESSOR, so as to confer upon a laborer bestowing labor upon the leased premises, or upon a materialman who furnishes material incorporated in the construction of improvements upon the leased premises, a mechanic's lien pursuant to Chapter 713, Florida Statutes or an equitable lien upon the LESSOR'S estate. This provisions hall be deemed a notice under Section 713.10 (1), Florida Statutes of the "non-liability" of the LESSOR.

#### ARTICLE 10.0

##### Operating Costs

Section 1. The LESSEE agrees to promptly pay when due all operating, maintenance and servicing charges and costs, including telephone, gas, electricity, water, sewer, sewer connections, and all other expenses incurred in the use and operation of the leased premises.

Section 2. The LESSEE agrees to obtain at its expense all permits and licenses which may be required by any governmental unit.

Section 3. Upon the LESSOR'S request, the LESSEE shall promptly furnish to the LESSOR evidence, satisfactory to the LESSOR, showing LESSEE'S compliance with its obligations under this Article.

#### ARTICLE 11.0

##### Nonwaiver

Failure of the LESSOR to insist upon the strict performance of any of the covenants, conditions and agreements of this Lease in any one or more instances, shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions or agreements. The LESSEE covenants that no surrender or abandonment of the demised premises or of the remainder of the term herein shall be valid unless accepted by the LESSOR in writing. The LESSOR shall be under no duty to relet the said premises in the event of an abandonment or surrender or attempted surrender or attempted abandonment of the leased premises by the LESSEE. Upon the LESSEE'S abandonment or surrender or attempted abandonment or attempted surrender of the leased premises, the LESSOR shall have the right to retake possession of the leased premises or any part thereof, and such retaking of possession shall not constitute an acceptance of the LESSEE'S abandonment or surrender thereof.

#### ARTICLE 12.0

##### Bankruptcy of LESSEE



Should the LESSEE, at any time during the term of this lease, suffer or permit an involuntary, or voluntary, petition in bankruptcy to be filed against him, or institute an arrangement proceeding under Chapter XI of the Chandler Act, or any amendments thereto, or should the LESSEE'S leasehold interest be levied on and the lien thereof not discharged within ninety days after said levy has been made, or should the LESSEE fail to promptly comply with all governmental regulations, other than regulations of the City of Fort Lauderdale both State and Federal, then, in such event, and upon the happening of either or any of said events, the LESSOR shall have the right, at its election, to consider the same a material default on the part of the LESSEE of the terms and provisions hereof, and, in the event of such default not being cured by the LESSEE within a period of ninety days from the date of the giving by the LESSOR of written notice to the LESSEE and mortgagees of the existence of such default, the LESSOR shall have the option of declaring this lease terminated and the interest of the LESSEE forfeited, or the LESSOR may exercise any other options herein conferred upon him. The pendency of bankruptcy proceedings, or arrangement proceedings, to which the LESSEE shall be a party shall not preclude the LESSOR from exercising the option herein conferred upon him.

#### ARTICLE 13.0

##### Leasehold Mortgagee

Section 1. The LESSEE shall have the right to mortgage LESSEE'S interest under this Lease to any Leasehold Mortgagee (as defined above), without obtaining the prior consent of the LESSOR; subject, however, to the other terms and conditions of this Lease, to the extent applicable.

Section 2. If the LESSEE shall mortgage its leasehold interest and if the holder of the mortgage or pledge shall forward to the LESSOR a copy of the recorded mortgage certified as a true copy by the Office of Official Records of Broward County, Florida, together with a written notice setting forth the name and address of the Leasehold Mortgagee, then, until the time that the leasehold mortgage shall be satisfied of record, the provisions of this paragraph shall apply.

Section 3. When giving notice to the LESSEE with respect to any default under the provisions of this Lease, the LESSOR will also serve a copy of such notice upon the Leasehold Mortgagee. No such notice to the Lessee shall be deemed to have been given unless a copy of such notice has been mailed to such Leasehold Mortgagee, which notice must specify the nature of such default.

Section 4. In case the LESSEE shall default under any of the provisions of this Lease, the Leasehold Mortgagee shall have the right to cure such default, whether the same consists of the failure to pay rent or the failure to perform any other matter or thing which the LESSEE is required to do or perform and the LESSOR shall accept such performance on the part of the Leasehold Mortgagee as though the



same had been done or performed by the LESSEE. The Leasehold Mortgagee, upon the date of mailing by LESSOR of the notice referred to in this Article, shall have, in addition to any period of grace extended to the LESSEE under the terms and conditions of this Lease for a non-monetary default, a period of not less than sixty (60) days within which to cure any non-monetary default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of the LESSEE for failure to pay rent, or failure to pay any amount otherwise required under the terms of this Lease (e.g., including, but not limited to, taxes or assessments), the Leasehold Mortgagee shall have thirty (30) days from the date the notice of default was mailed to the Leasehold Mortgagee within which to cure such default.

Section 5. Upon the happening of any default and upon receipt of notice of default from the LESSOR, the LESSEE agrees to notify the Leasehold Mortgagee promptly in writing of such occurrence and shall state in the notice what action has been or will be taken by the LESSEE to cure the default. A copy of such notice shall be simultaneously furnished to LESSOR.

Section 6. The Leasehold Mortgagee may become the legal owner and holder of the LESSEE'S leasehold interest under this Lease by foreclosure of its mortgage or as a result of the assignment of LESSEE'S leasehold interest in lieu of foreclosure, whereupon such Leasehold Mortgagee shall immediately become and remain liable under this Lease as provided in this Article, except that such Leasehold Mortgagee may assign its acquired leasehold interest one time without the LESSOR'S prior written consent to a Leasehold Mortgagee Assignee at any time provided such Leasehold Mortgagee Assignee is a Non-Affiliated Person and qualifies according to the terms and conditions set forth below within the time so specified. Once an assignment of the acquired leasehold interest as set forth above in this Article is consummated, then any subsequent assignments of the leasehold interest shall be subject to the prior written consent of the LESSOR as otherwise provided for in this Lease.

Section 7. In the event that a Leasehold Mortgagee shall become the owner or holder of the LESSEE'S leasehold interest by foreclosure of its mortgage or by assignment of the LESSEE'S leasehold interest in lieu of foreclosure or otherwise, except as may be explicitly provided otherwise herein, the term "LESSEE" as used in this Article shall mean the owner or holder of the LESSEE'S leasehold interest only for that period that the Leasehold Mortgagee is seized of the LESSEE'S leasehold interest so that, in the event of a sale, transfer, assignment or other disposition of the leasehold interest herein by the Leasehold Mortgagee, then, provided such sale, transfer, assignment or other disposition is to a Non-Affiliated Person, such Leasehold Mortgagee shall be deemed and construed, without further agreement between the LESSOR and the Leasehold Mortgagee or between the LESSOR, the Leasehold Mortgagee and the Leasehold Mortgagee Assignee that the Leasehold Mortgagee Assignee has assumed and agreed to carry out any and all covenants and obligations of the LESSEE under this Lease.

Section 8. Notwithstanding the foregoing, the Leasehold Mortgagee (or its Leasehold Mortgagee Assignee) must demonstrate to

the reasonable satisfaction of the LESSOR, that either (i) it has the experience and capability of operating the hotel and marina; or (ii) it has the financial stability to operate the hotel and marina by an entity qualified to do so, within one hundred twenty (120) days of the effective date of the assignment to the Leasehold Mortgagee Assignee as set forth herein. The standards to be applied by the LESSOR in approving the Leasehold Mortgagee (or its Leasehold Mortgagee Assignee) or the operator of the hotel and marina shall be those which govern the LESSOR'S consent to an assignment of the Lease.

Section 9. Within thirty (30) days after written request by LESSEE or by LESSEE'S Leasehold Mortgagee, or in the event that upon any sale, assignment or mortgaging of LESSEE'S leasehold interest herein by LESSEE or LESSEE'S Leasehold Mortgagee, an Estoppel Certificate shall be required from the LESSOR, the LESSOR agrees to deliver in recordable form such Estoppel Certificate to any proposed Leasehold Mortgagee, purchaser, assignee or to LESSEE certifying (if such be the case) (i) the amount of rent and additional rent due under the Lease, if any, and the date to which rents due under the Lease, if any, and the date to which rents have been paid; (ii) that this Lease is in full force and effect; (iii) that the LESSOR has no knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iv) that there are no defenses or offsets which are known and may be asserted by the LESSOR against LESSEE in respect of obligations pursuant to the Lease.

Section 10. Reference in this Lease to acquisition of the LESSEE'S leasehold interest herein by the Leasehold Mortgagee shall be deemed to refer, where circumstances require, to acquisition of the LESSEE'S leasehold interest herein by any purchaser at a sale on foreclosure of the Leasehold Mortgagee, provided such purchaser is a Non-Affiliated Person. Provisions applicable to the Leasehold Mortgagee in such instance or instances shall also be applicable to such purchaser, provided such purchaser is a Non-Affiliated Person.

Section 11. Except as may be expressly provided herein to the contrary, so long as the LESSEE'S leasehold interest herein shall be mortgaged to a Leasehold Mortgagee, the parties agree for the benefit of such Leasehold Mortgagee that the LESSOR shall not sell, grant or convey to the LESSEE all or any portion of the LESSOR'S fee simple title to the leased premises without the prior written consent of such Leasehold Mortgagee. In the event of any such sale, grant or conveyance by the LESSOR to the LESSEE, the LESSOR and the LESSEE agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the leased premises. This Section shall not be construed to prevent a sale, grant or conveyance of the LESSOR'S fee simple title by the LESSOR to any Person, firm or corporation other than the LESSEE, its successors, legal representatives and assigns.

Section 12. So long as the LESSEE'S interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties agree for the benefit of such Leasehold Mortgagee, that they shall not surrender or terminate, or accept a surrender or termination of this Lease or any part of it, nor shall they modify this Lease or accept prepayments of installments of rent to become due, without the prior written consent of such Leasehold Mortgagee in each instance.

## ARTICLE 14.0

### Forfeiture

Section 1. If the LESSEE shall fail to keep and perform any of the covenants, conditions and agreements herein provided to be performed by said LESSEE, and such default shall continue for a period of thirty days from the date of LESSOR'S notice of the existence of such breach, said notice to be provided in the Article hereof entitled "Notices" to the LESSEE and appropriate mortgagee or mortgagees directing that the said default be corrected within thirty days of the date of said notice, the LESSOR shall have the right to treat such default as intentional, inexcusable and material, and thereupon the LESSOR, by notice in writing transmitted to the LESSEE, as provided in the Article hereof entitled "Notices", may at its option declare this lease ended and without further force and effect. Thereupon, the LESSOR is authorized to re-enter and repossess the leased premises and the buildings, improvements and personal property thereon, either with or without legal process, and the LESSEE does in such event hereby waive any demand for possession of said property, and agrees to surrender and deliver up said leased premises and property peaceably to said LESSOR. In the event of such forfeiture, the LESSEE shall have no claim whatsoever against the LESSOR by reason of improvements made upon the premises, rents paid, or from any other cause whatsoever. In the event of such forfeiture, the title and right of possession to all personal property of the LESSOR or replacements thereof, usually situated on the leased premises shall automatically vest in the LESSOR, free and clear of any right or interest therein by the LESSEE. The provision of this Article shall not be construed so as to divest the LESSOR, in the event of such default, of any legal right and remedy which it may have by statutory or common law, enforceable at law, or in equity, it being intended that the provision of this Article shall afford to the LESSOR a cumulative remedy, in addition to such other remedy or remedies as the law affords a lessor when the terms of a lease have been broken by the lessee.

Section 2. In the event that a default occurs which cannot be corrected by reasonable diligence within thirty (30) days of receipt of notice to do so as aforesaid, and if the LESSEE commences correction of said default within such thirty (30) days' period and proceeds with diligence to completion, then such default shall be considered excusable. This provision shall extend to any mortgagee of all or any part of the leased Property in the event such mortgagee elects to exercise its option to cure such default. Should correction of such default be beyond the control of such mortgagee, such as matters which could be accomplished exclusively by LESSEE, then reasonable diligence on the part of the mortgagee in attempting to cure the default shall render such default excusable.

Section 3. LESSOR hereby agrees that, notwithstanding any other provision of the Lease, (a) there will be no cancellation or termination of the Lease or acceleration of payment of rent so long as rent and taxes are paid when due and (b) LESSOR will not by reason of the nonpayment of rent or taxes exercise its right to cancel or terminate the lease or to accelerate the payment of rent thereunder

prior to expiration of the 60-day notice period set forth in Section 1 of this Article.

## ARTICLE 15.0

### Capital Improvement Reserve Account

Commencing with the October 1, 1995 lease year and continuing annually for the remaining term of the Lease, LESSEE shall monthly, on December 20th, set aside funds into a Capital Improvement Reserve Account. The amount funded into the Capital Improvement Reserve Account ("CIRA") shall be an amount equal to one-twelfth (1/12) of three percent (3%) of the annual Gross Operating Revenue (as that term is defined in Article 26.0 hereof) for the preceding lease year ("Reserve"). The CIRA balance, from time to time, shall include interest earned, if any, on all funds in the CIRA. Expenditures shall be made from the CIRA only for Capital Improvements to the Property. All expenditures from the CIRA shall be in an amount not greater than that generally recognized in the community for good faith arm's length transactions for the purchase or construction of such Capital Improvements. LESSEE shall, at LESSEE'S expense, furnish to LESSOR, on or before April 30th of each year during the term of the Lease, report prepared by an independent certified public accountant, licensed by the State of Florida, showing the balance of the CIRA as of December 31st of the preceding calendar year, together with a schedule describing the expenditures from said CIRA and a statement that the funds so disbursed were for Capital Improvements.

If, during any lease year, Capital Improvement expenditures are made in excess of the amount of the Reserve ("Excess Capital Improvements") required to be deposited in the CIRA, then Lessee shall receive a credit for such Excess Capital Improvements as against subsequent Reserve required to be deposited into the CIRA.

Any amounts in the CIRA not expended during a lease year ("Unexpended Reserve") shall be carried forward to the following lease year. Unexpended Reserve amounts may, at any time, be used for Capital Improvements, but shall not affect the amount which the Lessee is required to deposit as the Reserve into the CIRA for any given lease year.

During the Renovation Period, Lessee shall invest and expend not less than \$6,000,000.00 in improvements to the leased premises to perform the Renovation Work as more particularly described in the budget set forth in Exhibit "D" attached hereto and made a part hereof ("Renovation Work"). The \$6,000,000.00 referred to in this Article shall not be deemed to be a credit against the obligations of the LESSEE with respect to the CIRA.

Lessee shall obtain all required building permits for the Renovation Work from all governmental and quasi-governmental agencies having jurisdiction over the Property and the Renovation Work.

The parties agree that all improvements constructed pursuant hereto and any undisbursed balance in the CIRA shall revert to the CITY in their entirety upon expiration of the leasehold term.

## ARTICLE 16.0

### Repairs and Maintenance

Section 1. The LESSEE agrees at his expense to keep and maintain the leased premises, including but not limited to, grounds, buildings, furnishings, fixtures and personal property, in good state of repair and first class condition.

Section 2. The LESSEE agrees at his expense to make all repairs to the leased premises including but not limited to, buildings, improvements, including electrical, plumbing, sewer, sewer connections, structural and all other repairs that may be required to be made on the leased premises, and may change or re-locate any roads thereon, provided reasonable access is maintained for sub-lessees, tenants, or boatmen.

Section 3. The LESSEE at his expense will keep all the buildings, both interior and exterior, including roof, in good state of repair and in first class condition, and at all times well painted.

Section 4. The LESSEE at its expense agrees to deliver to the LESSOR upon the termination of this Lease the entire leased premises including buildings, improvements, in good state of repair and in good usable condition, ordinary wear and tear excepted.

## ARTICLE 17.0

### Personal Property

This Lease also includes personal property of the LESSOR itemized on the sheets designated as Exhibit "2-A" and "2-B" of the original Lease dated September 1, 1962, with such Exhibits being recorded at Official Records Book 2870, Pages 556 through 573 of the Public Records of Broward County, Florida, and the LESSEE shall have right to exchange or sell same from time to time provided that same shall be replaced with equipment of equal or better quality and title to such replacements shall at all times remain in the LESSOR and upon the termination of this lease shall be delivered to the LESSOR in good condition.

All furnishings in the hotel rooms which are owned by the LESSEE, including, but not limited to beds, chairs, sofas, tables, desks, credenzas, televisions, dressers, lamps and the like shall become the property of the LESSOR at the end of the Lease term and shall be surrendered to the LESSOR simultaneously with the return of possession of the Property. The LESSEE agrees that during the last five (5) years of this Lease, none of the foregoing shall be removed from the Property, except in a manner consistent with the normal, ongoing operation of a chain-affiliated, full-service, mid-market hotel as described in Article 19.0 of this Lease. Nothing in Article 17.0 shall create any interest in favor of the LESSOR in any personal property leased by the LESSEE from Non-Affiliated Persons or otherwise owned by Non-Affiliated Persons.

## ARTICLE 18.0

### Insurance

Section 1. The LESSEE at its expense shall provide fire and extended coverage insurance or all risk or D.I.C. coverage on the real property herein described and all improvements situated thereon and contents contained therein or thereupon for the benefit of the LESSOR and the LESSEE. Insurance coverage shall be at least 90% of the insurable value of said real property and improvements (including buildings and contents). A certificate of insurance evidencing said coverage shall be provided to LESSOR.

Section 2. The LESSEE at its expense shall provide commercial general liability insurance for the benefit of the LESSOR and the LESSEE with minimum limits of coverage of not less than \$2.0 million covering bodily injury and property damage. The minimum limits of coverage herein shall be adjusted every five (5) years, on the anniversary date of the lease year, in accordance with the increase or decrease in the Consumer Price Index for "All Urban Consumers, U.S. City Average (1982 - 1984 = 100)" (hereinafter, CPI) published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by Lessor. For the purposes of this section, the beginning CPI figures shall be the most recently published index figures in effect on the beginning of the 1994/95 lease year. On the date(s) of adjustment, the adjusting figures shall be the most recently published figures in effect on the subject adjustment date(s).

Section 3. In the event of destruction or damage of any of the property covered by insurance, the funds payable in pursuance of said insurance policies shall be deposited in Sun Bank/South Florida, N.A. or any successor institute which serves as the depository for the City of Fort Lauderdale, as an interest bearing trust fund for the benefit of LESSOR and LESSEE, and said funds shall be used for the purpose of reconstruction or repair, as the case may be, of any of the buildings, improvements or personal property so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with all applicable building and zoning codes. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, then and in such event, such funds shall be used as far as the same will permit in paying the cost of said reconstruction or repair, and any difference shall be made up by the LESSEE.

## ARTICLE 19.0

### Use of Premises

Section 1. Except as stated below, the LESSEE agrees that the leased premises shall be used as a first-class hotel-marina and resort complex, which may include uses such as restaurant, cocktail lounge, liquor package store, yacht club, motel, hotel, convention hall, retail stores, marine stores, marine service station, charter

boat and sightseeing boat facility, offices, apartments, and other kindred and similar businesses. It is not the intention of the parties that the LESSEE shall be unreasonably restricted in the use of the leased premises other than the LESSEE is required to conduct a legitimate business or businesses on the leased premises in keeping with the purpose for which the improvements thereon were constructed. LESSEE agrees that the hotel complex will be maintained and operated in accordance with the standards of a chain-affiliated, full-service, mid-market hotel. Such standards are intended to provide high quality accommodations and service to guests and visitors. These standards are generally described as being at a level higher than that found in the economy hotel market, but are lower than those found in the luxury hotel market.

Section 2. The LESSEE shall maintain the character of Bahia Mar as a marina.

Section 3. The LESSEE agrees that it will diligently, efficiently and skillfully conduct his business on the leased premises so as to make the same yield the greatest revenue possible.

Section 4. The LESSEE agrees that at no time will it directly or indirectly permit the leased premises or any portion thereof to be used for any illegal purpose.

#### ARTICLE 20.0

##### Assignment and Subleasing

The LESSEE may from time to time sublease certain portions of the marina without prior approval of the CITY; however, any total assignment or sale of the leasehold interest described herein shall require the approval of the CITY Commission, which shall have the right to determine financial stability of the prospective purchaser, yet such consent shall not be unreasonably withheld.

It is understood by and between the parties hereto that any sublease shall be for a rental consistent with rates prevailing in this locality at the time of the sublease.

In the event that the parties cannot agree with a minimum rental, then the subject shall be set for arbitration with the LESSOR and LESSEE, each of them choosing one arbitrator, whereupon the two arbitrators so chosen shall select a third and the three so selected arbitrators shall then make a decision as to a reasonable rental which shall be binding upon the parties. The fact of arbitration shall not act as a breach of this lease.

#### ARTICLE 21.0

##### Name

The name "BAHIA MAR" shall be preserved by the LESSEE. LESSOR retains the right to use the name "BAHIA MAR" in its advertising as a publicly-owned facility.



ARTICLE 22.0

Proration

(This Article is intentionally deleted.)

ARTICLE 23.0

Subordination

The LESSOR shall never be obligated to subordinate its fee title interest.

ARTICLE 24.0

Alterations and Additions

The LESSEE agrees to make no major alterations, changes or additions to the leased premises, without first obtaining the written consent of the LESSOR given in pursuance of appropriate municipal action taken at a lawful meeting of the CITY Commission of said CITY. However, both parties hereto being desirous of LESSEE conducting its business in and upon the demised premises so as to provide the greatest volume of business, the LESSOR agrees hereby to not unreasonably withhold its consent to changes and alterations that may be desired and proposed by the LESSEE, nor to exact or change any consideration for giving any consent.

ARTICLE 25.0

Title to Property

LESSOR hereby covenants and agrees with LESSEE that LESSEE shall quietly and peaceably hold, possess and enjoy the said demised premises for the full term of this Lease without any let, hindrance or molestation from LESSOR, or any persons claiming by, through or under it, or any Person or Persons whomsoever, and said LESSOR hereby covenants and agrees with LESSEE that it is seized of the demised premises in fee simple free and clear of all encumbrances, except as set forth in Article 1.0. LESSOR will defend the title to the leased premises and the use and occupation of same by LESSEE during the term of this Lease against the claims of any and all person, or persons whomsoever, and will, at its own cost, perfect or defend any and all legal proceedings or suits which may be instituted by any Person or Persons whomsoever, directly or indirectly attacking LESSOR'S full ownership of the premises.

ARTICLE 26.0

Rent



Section 1. The purposes of this section are (a) to establish the rentals due annually from the LESSEE to the LESSOR and (b) to define those revenues which are to be used or included as gross operating revenues for the calculation of annual percentage rentals due from the LESSEE to the LESSOR.

Section 2. The LESSOR shall receive and the LESSEE shall pay as rent the following:

A. A minimum annual rental of One Hundred Fifty Thousand and no/100 Dollars (\$150,000.00), which shall be payable in equal quarterly installments of Thirty Seven Thousand Five Hundred and no/100 Dollars (\$37,500.00) each on October 1, January 1, April 1 and July 1 of each lease year. Effective October 1, 1995, the minimum annual rental shall be Three Hundred Thousand and 00/100 Dollars (\$300,000.00) payable in quarterly installments as above aforesaid.

B. During the Second Extended Term, the minimum annual rental shall be the greater of:

(1) Three Hundred Thousand and 00/100 Dollars (\$300,000.00); or

(2) Eighty percent (80%) of the average annual rent payable during the three lease years immediately preceding the lease year for which the minimum annual rental herein is being calculated.

C. During the Second Extended Term, such minimum annual rental shall continue to be paid in quarterly installments on October 1, January 1, April 1 and July 1. If the minimum annual rental for any lease year is governed by subsection 2. B. (2) above and the calculations under subsection 2. B. (2) are not known by October 1, then, until such time as the calculations under subsection 2. B. (2) above are known, the quarterly installment payable October 1 shall be in the same amount as the preceding July 1 installment, subject to later adjustment as hereinafter set forth. To the extent any adjustments are necessary from the October 1 quarterly installment of minimum annual rent based on the formula set forth in subsection 2. B. (2) above, then such adjustments which would have otherwise been due with the October 1 quarterly installment shall be paid to LESSOR no later than January 1.

D. In addition to the forgoing minimum annual rental, the LESSEE shall pay to the LESSOR a rental equal to an annual percentage (hereinafter set forth) of gross operating revenues for those functions or uses specified hereinafter, reduced in all events by the amount of the minimum annual rental paid in accordance with subsections 2. A., B. and C., above.

E. The annual percentages of gross operating revenues which the LESSEE shall pay as rent to the LESSOR are as follows:

(1) For the years of the Lease ending September 30, 1980 through September 30, 1985, the annual percentage rental due from the LESSEE to the LESSOR shall be 3.5% of gross

operating revenues.

(2) For the years of the Lease commencing October 1, 1985 and ending September 30, 2012, the annual percentage rental due from the LESSEE to the LESSOR shall be 4.0% of the annual gross operating revenues.

(3) For the years of the Lease commencing October 1, 2012 and ending September 30, 2037, the date of the termination of this Lease, as amended, the annual percentage rental due from the LESSEE to the LESSOR shall be 4.25% of the annual gross operating revenues.

(4) The LESSEE shall pay annual percentage rent for the Second Extended Term described above at the rate of 4.25% of the annual gross operating revenue ("Gross Operating Revenue" or "GOR"), as hereinafter defined.

(5) Any and all sums received by the LESSOR from the LESSEE in payment of minimum annual rental shall be fully credited against the annual percentage rentals due from the LESSEE to the LESSOR as provided herein.

(6) For purposes of this Lease, as amended, the lease year shall be deemed to commence on October 1 and end on September 30 of each year under the term of this Lease.

Section 3. As of the effective date of this Amended and Restated Lease through and including September 30, 1995, Section 3 of this Article shall read as follows:

A. Annual gross operating revenues from only the following uses or functions of the leased premises shall be used in calculating the annual percentage rental due from the Lessee to the Lessor regardless of whether the lessee or a sublessee, affiliate or other entity related to lessee operates and controls said use or function:

(1) All hotel, motel, meeting and convention room revenues.

(2) All food and beverage sales made on the leased premises, exclusive of grocery sales and liquor package store sales.

(3) All rentals received for dockage of private or commercial marine vessels.

(4) All parking revenues.

B. Revenues produced from the following uses or functions are specifically excluded from computation within gross operating revenue:

(1) Telephone revenue.

(2) Fuel dock sales.

(3) Inter-company revenues, the exclusion of which shall not reduce gross operating revenues under paragraph 3A above.

(4) Commissions not related to the uses or functions described in paragraph 3A above.

Section 3. Commencing October 1, 1995 and thereafter, Section 3 of this Article shall read as follows:

A. Annual Gross Operating Revenue ("GOR") shall mean and refer to the total of all revenues, rents, income and receipts received from or by any Person(s) whomsoever (less any refunds to Non-Affiliated Persons) of every kind derived directly or indirectly from the operation of the Property, including, without limitation, income (from both cash and credit transactions and before commissions) from:

(1) the rental of rooms; convention and meeting room facilities, banquet or other facilities (including facilities for "The Boat Show" which is annually held on the premises), exhibits, sales displays or advertising space of every kind, provided that as to the rental of convention, meeting and banquet room facilities and facilities for "The Boat Show", where such facilities are rented to Non-Affiliated Persons, where such Non-Affiliated Persons also conduct sales in conjunction with the rental of the aforementioned facilities, the GOR shall be limited to the rental fee paid for the rental of the aforementioned facilities and shall not include the sales of such Non-Affiliated Persons renting the aforementioned facilities.

(2) boat slips and dockage fees, together with all revenues ancillary thereto, except fuel, which shall be included as set forth below;

(3) food, beverage (including alcoholic beverages sold by the drink or bottle), convention and banquet sales, including room service, provided that in room mini-bars shall be calculated on a net basis, wherein net mini-bar revenues shall be defined as gross mini-bar revenue, less any lease payment made by the Lessee to a Non-Affiliated Person, with such net basis being subject to the Limitation on Net Income Rule;

(4) net income received from Concessions, if any, subject to the Limitation on Net Income Rule;

(5) net income, if any, from telephone and telecommunications services, and movie rentals, such net income being subject to Limitation on Net Income Rule; and gross revenues from cable television services, laundry services, personal services, audio-visual services and parking;

(i) "net income from telephone and telecommunications services" shall mean gross revenues therefrom LESS direct expenses paid to long distance providers for guest usage, where such providers are

**Non-Affiliated Persons;**

(6) wholesale and/or retail sales of goods or services, including merchandise or fuel (provided that the percentage of annual GOR shall be calculated only against "net fuel sales" which shall be the gross fuel sales, less the cost of fuel and applicable taxes on such fuel, where the cost of fuel is no greater than the cost in a good faith arm's length purchase from a wholesale distributor and where such "net fuel sales" formula shall be subject to the Limitations on Net Income Rule set forth above);

(7) proceeds, if any, from business interruption or other loss of income insurance;

(8) net casino gambling income, (if any) which is defined as: gross casino gambling revenues (handle) less: (a) gambling winnings paid to bettors; (b) state, local and federal gaming taxes, but not including income taxes paid by businesses not involved in gambling; and (c) less such other items as Lessor and Lessee may subsequently agree upon, such net casino gambling income being subject to the Limitation on Net Income Rule;

(9) LESSEE'S portion of any eminent domain awards which has not been reinvested in the Property within one (1) year of the date the award is received by LESSEE;

(10) commissions from fuel vendors coming upon the Property to fuel vessels.

**B. GOR shall not include:**

(1) gratuities received by employees;

(2) Allowances, as defined above;

(3) federal, state or municipal excise, sales, use, occupancy or similar taxes collected directly from patrons or guests, provided such taxes are separately stated;

(4) insurance proceeds (other than business interruption or other loss of income insurance);

(5) proceeds from the disposition of personal property (such as furniture, fixtures and equipment related to the operation of the hotel and restaurant) no longer necessary for the operation of the property;

(6) interest income, if any.

**C.** Any subletting of the functions described in above subsection 3. A. shall require the prior written approval of the LESSOR as to the proposed sublessee, which approval shall not be unreasonably withheld considering the financial responsibility and business capability of the proposed sublessee. Upon written notification by LESSEE to LESSOR of the identity of said proposed sublessee and the submission to LESSOR of data reflecting the financial responsibility and business capability of said proposed

sublessee, the LESSOR shall within thirty (30) days after receipt thereof notify LESSEE of its acceptance or rejection of the proposed sublessee, and failure of the LESSOR to so respond within said thirty (30) days shall be deemed to constitute approval by the LESSOR of said sublessee. For the purposes of this subsection C., LESSOR'S City Manager shall have the authority to grant or deny approval in accordance with the above standards.

D. In addition to the foregoing, all rentals received by LESSEE from subtenants numbered 1 through 14 on the attached Exhibit E (site plan sketches of the subtenant space denominated in Exhibit E is on file in the City of Fort Lauderdale's Office of the City Clerk, such site plan sketches being denominated as Exhibit D-1 to 1994 Amended and Restated Lease/Bahia Mar) or their successors, (hereinafter, Existing Subtenant Space) shall be included in gross operating revenues for calculation of the annual percentage rental due the LESSOR. Subject to the provisions of Article 20.0, Assignment and Subletting, LESSEE may continue to sublet to legitimate businesses Existing Subtenant Space without prior approval of the LESSOR. Any functions or uses of the leased premises which are set forth in subsection 3. A. in this Article which are hereinafter sublet shall in no way affect the fact that the gross operating revenues derived from said functions and uses shall be included in the annual gross operating revenue figure upon which the annual percentage rental due from the LESSEE to the LESSOR is calculated. Further, if LESSEE hereinafter- acquires for its own use any of the Existing Subtenant Space, then gross operating revenues derived by the LESSEE thereafter from Existing Subtenant Space shall be and shall become part of the gross operating revenues for calculation of annual percentage rentals due from the LESSEE to the LESSOR, until such space shall be subsequently sublet at which time only rental income from such subletting shall be included in gross operating revenues.

E. In the event that additional or new revenue-producing space is created upon the leased premises or in the event that the LESSEE, directly or indirectly, subsequently converts any space from the functions set forth in subsection 3. A., above, to other legitimate business functions, then and in those events the gross operating revenues derived from such space or uses shall be included in the gross operating revenues for calculation of the annual percentage rent; provided, however, that the LESSEE may in said instances seek prior approval from the LESSOR to sublet such space and have only the rentals received from such subletting included in gross operating revenues for calculation of the annual percentage rents due from LESSEE to LESSOR. Approval of subletting in such instances shall be at the discretion of LESSOR, which discretion shall not be unreasonably exercised considering the financial result or impact to the LESSOR. For the purposes of this subsection E., LESSOR'S City Manager shall have the authority to grant or deny approval in accordance with the above standards.

F. Except as set forth herein there shall be no other rent due from LESSEE to LESSOR for the use of the leased premises and it is expressly understood that there shall be no rental charge for so-called "non-revenue producing space" as was provided in Article XXVI, Subsection (c) of the original Lease.

Section 4. Within ninety (90) days after the end of each Lease year, the LESSEE shall pay to LESSOR a sum equal to the annual percentage rental required by Section 2 and 3 of this Article, less those amounts of minimum annual rental previously paid during the Lease year, and shall further deliver to the LESSOR at said time a detailed statement duly signed by a certified public accountant setting forth an itemization of all "gross operating revenues" for the preceding lease year, which statement shall further show and indicate the gross operating revenues for each of the classifications set forth in Section 3 of this Article.

Section 5. The LESSEE shall also keep and maintain accurate records and complete books and records of account indicating all of the LESSEE'S gross operating revenues as described in Section 3 of this Article, together with any sublessee's gross operating revenues in those instances under the terms hereof where the gross operating revenues of the sublessee are to be included in the calculation of the annual percentage rentals due from LESSEE to LESSOR. Said records and statements of gross operating revenues shall be kept and maintained by the LESSEE and appropriate ublessees in accordance with generally accepted accounting principles and shall be available to be examined by the LESSOR or its agents, servants, employees or representatives, and said records shall be kept and maintained, or a true and accurate copy thereof, in and upon the leased premises. In the event that the LESSEE has intentionally, willfully and with the intent to defraud made any reports to the LESSOR showing less gross operating revenues than actually received, such conduct and action on the part of the LESSEES shall constitute a material breach of the covenants of this Lease Agreement by the LESSEE.

#### ARTICLE 27.0

##### War

(This Article is intentionally deleted.)

#### ARTICLE 28.0

##### Financial Statement

The LESSEE herein shall furnish to the LESSOR within one hundred twenty (120) days of LESSEE'S fiscal year end an audited financial report performed by a certified public accountant licensed to practice in the State of Florida, said financial report reflecting the results of operations and the financial condition of the LESSEE during such fiscal year.

#### ARTICLE 29.0

##### Improvements to be Made by LESSEE

The LESSEE shall furnish statutory payment and performance

bonds pursuant to Chapter 713, Florida Statutes written by a Corporate Surety company on the U.S. Department of Treasury current approved list of acceptable sureties on Federal Bonds, as found in the U.S. Department of Treasury Circular No. 570, as same may be updated from time to time, in the full amount of any contract entered into by LESSEE for any major capital improvement, with said bonds being executed and issued by a Resident Agent licensed by and having offices in the State of Florida representing such Corporate Surety at the time such capital improvements are constructed, conditioned upon full and faithful performance by LESSEE of such contract, and full payment to all laborers and materialmen supplying labor or materials for such improvements.

#### ARTICLE 30.0

##### Notices

All notices required by law and by this Lease to be given by one party to the other shall be in writing, and the same shall only be deemed given if forwarded as follows:

(a) By certified mail, return receipt requested, to the following addressees:

LESSOR: City of Fort Lauderdale  
City Manager  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301

with a copy to:

Finance Director,  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301

LESSEE: Rahn Bahia Mar, Ltd.  
1512 East Broward Boulevard, Suite 301  
Fort Lauderdale, Florida 33301

LEASEHOLD  
MORTGAGEE: Citicorp Real Estate, Inc.  
400 Perimeter Center Terrace  
Suite 600  
Atlanta, GA 30346

or to such other addressees as the parties may by writing designate to the other party.

(b) The notice may also be served by personal delivery to LESSOR or LESSEE, or to the agent of LESSEE in charge of the leased premises.

(c) The notice to any Leasehold Mortgagee, as provided in Article 13.0, Leasehold Mortgagee, will only be provided if such





Leasehold Mortgagee has complied with the provisions of such Article 13.0.

#### ARTICLE 31.0

##### Taxes

During the term of the Lease, as extended, the LESSEE will be required to pay all taxes lawfully imposed or levied against the demised premises or personalty situated thereon, whether such taxes are levied against the land, improvements located thereon or personalty situated thereon. In the event that as a result of legislation or judicial precedent or decree subsequent to July 1, 1994 any tax, which prior to July 1, 1994 was lawfully levied or imposed against the demised premises or personalty situated thereon as aforesaid, ceases to be a lawful levy, then, in that event, Lessee agrees to continue to pay to City a "Payment In Lieu of Taxes" in an amount equal to the amount LESSOR would have realized from the imposition, levy and payment of such taxes, had the continued imposition or levy of such taxes remained lawful. At the time any such imposition or levy ceases to be lawful, the Base Assessed Value of the object of the tax shall initially be determined in accordance with the assessed value on the tax rolls for the preceding year. Thereafter the assessed value of such object shall be adjusted by the overall change in the City's overall assessment roll, excluding changes due to new construction and annexation. Such "Payments In Lieu of Taxes" shall be in accordance with the millage rates adopted by the taxing authorities in each successive year of the lease term. The "Payment in Lieu of Taxes" herein shall be payable in the same manner and within the same time frames as ad valorem taxes.

#### ARTICLE 32.0

##### Filling

(This Article is intentionally deleted.)

#### ARTICLE 33.0

##### Existing Obligations

Section 1. It is understood by and between the LESSOR and the LESSEE that this lease is subject to any and all existing leases, contracts and easements affecting the leased property. All such leases are hereby assigned to the LESSEE while this lease is in effect.

Section 2. LESSOR shall have the responsibility of operating and maintaining the pumping station and force main located on the leased premises, and LESSEE agrees that LESSOR shall have reasonable right of entry and access to the aforesaid facility to perform any necessary maintenance, and shall further be permitted to

make any additional underground connections to the aforesaid pumping station consistent with its operation. LESSEE further agrees to allow no improvements which would prevent the aforesaid construction and maintenance.

#### ARTICLE 34.0

##### Annual Report

(This Article is intentionally deleted.)

#### ARTICLE 35.0

##### Effective Date

The execution of this Lease by the LESSOR is in pursuance of a Resolution, approved at a regular meeting of the City Commission of the City of Fort Lauderdale. The effective date of this Amendment and Restatement shall be the last date on which the LESSOR or LESSEE executes the Amendment and Restatement, provided that the authority of the property officials of LESSOR to execute this Amendment and Restatement shall expire within sixty (60) days of adoption of the Resolution so authorizing execution.

#### ARTICLE 36.0

##### Miscellaneous Provisions

It is further mutually covenanted and agreed by and between both of the parties hereto as follows:

(a) That this lease agreement shall be interpreted and governed by and construed in accordance with the laws of or applicable to the State of Florida.

(c) That the LESSOR shall not be required to give the LESSEE notice for the payment of any rent or other charges or assessments or payments to be made by the LESSEE under the terms and conditions as may be required by this lease agreement except as hereinbefore provided.

(d) Both of the parties to this lease agreement intend and therefore understand and agree that the LESSOR retains the right to negotiate sale of the entire Bahia Mar Yacht Basin, but in the event of any sale or other disposition of said Bahia Mar Yacht Basin by the LESSOR, the same shall be subject to this lease agreement, all of its terms and conditions and the rights of the LESSEE therein as provided for by this lease agreement.

(e) The full amount of the last year's rental under this lease agreement shall be paid at or before the time of execution and delivery hereof. In lieu thereof and as security therefor, receipt is hereby acknowledged of a note in the amount of the last year's rent, payable on demand and personally endorsed by Patricia Murphy

Kiernan.

(f) Interest Penalties: Late Payments. Late payments under this Lease shall accrue interest at the rate of twelve (12.0%) per cent per annum, provided, however, that no interest penalty shall apply to any payment which is received within fifteen (15) days of the date upon which it is otherwise due, but that any payment received more than fifteen (15) days after the date upon which it is due shall accrue interest penalties as stated above from the date such payment was first due.

(g) FDOT Project. There is currently in the planning stages a project for the realignment of State Road A1A and Seabreeze Boulevard ("FDOT Project") for certain lands abutting the demised premises on the East and to the North of the existing pedestrian overpass (said FDOT Project being currently designated as Project WPA No. 4110736, Job No. 86050 3540). In consideration of LESSOR'S obligations set forth below, the LESSEE waives any right to compensation as a result of any eminent domain proceedings for the acquisition of a portion of the demised premises for such project (to the extent that such acquisition shall not exceed a total of 24,950 square feet or exceed a depth of 55 feet at its maximum and to the extent such lands are necessary for the completion of the FDOT Project), such portion of the demised premises as referenced above being hereinafter designated the "Taking Parcel," a site plan sketch of which has been exchanged between the parties. LESSEE hereby agrees to join LESSOR in the conveyance of the Taking Parcel, including LESSEE'S leasehold interest therein. To the extent the acquisition exceeds 24,950 square feet, LESSEE may seek compensation in the eminent domain proceedings.

LESSOR agrees, in consideration of the foregoing, that in the event the Taking Parcel is conveyed as aforesaid that LESSOR shall be obligated to replace and restore all paving, landscaping and other improvements destroyed or damaged as part of such taking or conveyance, and in addition thereto, LESSOR further agrees that as a material consideration for the LESSEE agreeing to the foregoing, the LESSOR shall be obligated, with respect to its consideration of future development approvals requested by LESSEE for the demised premises, to consider any development application as though the Taking Parcel which has been conveyed was still a part of the demised premises. The foregoing includes, but is not limited to, present or future ordinances that deal with parking, set-backs (other than sight triangles and line of site requirements for public safety), square foot requirements, height limitations, density, intensity of use, buffering, landscaping, floor area ratios and any and all other parcel size-based criteria.

Notwithstanding anything in the Lease or any amendment thereto to the contrary, the LESSOR agrees with the LESSEE that the LESSEE shall not be required to convey the Taking Parcel unless and until all other parcels needed to complete the FDOT Project have been acquired.

Further, prior to any taking or conveyance of the Taking Parcel, the LESSEE may commence improvement or construction of any part of or all of the demised premises including the Taking Parcel.

If construction is commenced on the Taking Parcel or any portion of the demised premises that affect the Taking Parcel, this subsection (g) shall terminate, be deemed null and void ab initio with the LESSEE not being obligated to convey unless normal statutory eminent domain proceedings are commenced and brought to fruition, in which event nothing in this subsection (g) shall limit any claim in any eminent domain proceedings which LESSEE may bring with respect to its leasehold interest.

The current Leasehold Mortgagee is Citicorp Real Estate, Inc. pursuant to that leasehold mortgage described in Exhibit "F" attached hereto. The Maturity Date of that current leasehold mortgage is June 30, 1988. LESSOR and LESSEE acknowledge and agree that the provisions of this subsection (g) are not binding upon Citicorp Real Estate, Inc., the holder of the existing leasehold mortgage referred to above without their joinder and consent to the provisions of this subsection (g), prior to the Maturity Date, except in the event an extension, renewal or modification of that mortgage is executed after the effective date of this Amended and Restated Lease. LESSOR and LESSEE acknowledge and agree, however, that as to the current Leasehold Mortgagee, Citicorp Real Estate, Inc., and except as stated above, that from and after the Maturity Date, or upon an earlier execution of an extension, renewal or modification of that leasehold mortgage after the effective date of this Amended and Restated Lease, the provisions of this subsection (g) shall be binding upon the current Leasehold Mortgagee, whether by extension, renewal, modification of the existing leasehold mortgage or otherwise, and shall thereafter, be fully binding upon any Leasehold Mortgagee which acquires the existing leasehold mortgage after the Maturity Date, or after an earlier execution of an extension, renewal or modification of the current leasehold mortgage after the effective date of this Amended and Restated Lease or places a new mortgage upon the LESSEE's leasehold interest after the effective date of this Amended and Restated Lease. An extension, renewal, or modification of the existing leasehold mortgage or execution of a new mortgage upon the LESSEE'S leasehold interest after the above events shall constitute an agreement by the Leasehold Mortgagee to execute a partial release of mortgage as to the Taking Parcel, without any compensation therefor, but only under circumstances where the LESSEE is obligated to convey the Taking Parcel without any compensation in accordance with this subsection (g). Notwithstanding the foregoing, LESSEE shall not execute any extension, renewal or modification of the existing leasehold mortgage, without the joinder and consent of the existing Leasehold Mortgagee, Citicorp Real Estate, Inc. as to the provisions of this subsection (g) and which joinder and consent shall obligate the Leasehold Mortgagee to execute a partial release of mortgage lien on the Taking Parcel at the time of the conveyance of the Taking Parcel, without compensation therefor, so that that Taking Parcel is conveyed free of the mortgage lien, but only under the circumstances where LESSEE is obligated to convey the Taking Parcel without compensation in accordance with this subsection (g). Nothing herein shall be deemed to affect in any way, any obligation the LESSEE may have to a Leasehold Mortgagee with respect to the division or application of any proceeds of condemnation to which the LESSEE may be entitled with respect to the Taking Parcel or the demised premises or any part thereof. In addition to the foregoing, the LESSEE agrees to use its best efforts (without being obligated to provide monetary or

other consideration) to obtain the joinder and consent of Citicorp Real Estate, Inc. to the provisions of this subsection (g), prior to execution of any extension, renewal or modification of the current leasehold mortgage.

(h) RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

#### ARTICLE 37.0

##### Merger & Conflict

The prior lease from the LESSOR to the LESSEE, dated the 1st day of September, 1959, pertaining to Bahia Mar restaurant and bar is hereby canceled and terminated by mutual consent of the parties hereto, provided, however, that any sums due thereunder to September 1, 1962, from LESSEE to LESSOR shall be promptly prorated and paid.

In the event and to the extent that there is any conflict between the terms and conditions of the Lease, as previously amended, and the terms and conditions of this Amended and Restated Lease, then the terms and conditions of this Amended and Restated Lease shall supersede and prevail over any such conflicting terms or conditions in the underlying Lease, as previously amended.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:

Patricia A. Adams

Dorothy O'Leary

(CORPORATE SEAL)

CITY OF FORT LAUDERDALE

By [Signature]  
Mayor

By [Signature]  
City Manager

ATTEST:

[Signature]  
City Clerk

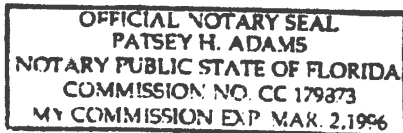
Approved as to form:

Dennis E. Lyen  
City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this February 13, 1995, by JIM NAUGLE, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



Patsey H. Adams  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

PATSEY H. ADAMS  
Name of Notary Typed,  
Printed or Stamped

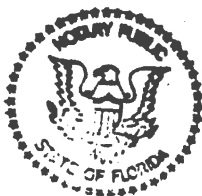
My Commission Expires: 3/2/96

179873  
Commission Number

STATE OF FLORIDA:  
COUNTY OF BROWARD:

February 14, 1995, by GEORGE L. HANBURY, II, City  
Manager of the CITY OF FORT LAUDERDALE, a municipal corporation  
of Florida. He is personally known to me and did not take an  
oath.

(SEAL)



"OFFICIAL NOTARY SEAL"  
DOROTHY O'LEARY  
MY COMM. EXP. 3/5/95

Dorothy O'Leary  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

DOROTHY O'LEARY  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires: 3-5-95

088831  
Commission Number

WITNESSES:

RAHN BAHIA MAR, LTD.,  
a Florida limited partnership

By: RAHN BAHIA MAR, G.P.,  
LTD., a Florida limited  
partnership, its sole general  
partner

By: RAHN BAHIA MAR, INC., a  
Florida corporation, its  
sole general partner

Robert J. Stirk  
Robert J. Stirk  
[Witness type/print name]

Carol J. Gardina  
CAROL J. GARDINA  
[Witness type/print name]

By: Peter H. Roberts  
By: Peter H. Roberts  
Vice President

1512 E. Broward Blvd. Suite 301  
Fort Lauderdale, Florida 33301

STATE OF FLORIDA:  
COUNTY OF BROWARD:

24th The foregoing instrument was acknowledged before me this  
day of January, 1995,  
by Peter H. Roberts, Vice President of RAHN  
BAHIA MAR, INC., a Florida corporation, as sole general partner of RAHN  
BAHIA MAR, G.P., LTD., a Florida limited partnership, as sole general  
partner of RAHN BAHIA MAR, LTD., a Florida limited partnership, on  
behalf of the partnership. He is personally known to me or has produced  
as identification.

(SEAL)

Susan C. Ross  
Notary Public  
My Commission Expires:  
SUSAN C. ROSS

RBD/BMarCons3 121594 1645

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. APR. 5, 1995  
BONDED THRU GENERAL INS. UND.



**EXHIBIT "A"**

All that part of BAHIA-MAR, according to the plat thereof recorded in Plat Book 35, Page 39 of the Public Records of Broward County, Florida, lying west of the west right-of-way line of Seabreeze Boulevard, EXCEPTING therefrom Parcel 1; also EXCEPTING therefrom the North eighty (80) feet of Parcel 34.

EXHIBIT "B"

ENVIRONMENTAL DISCLOSURE TO  
CITY OF FORT LAUDERDALE

SUBMITTED BY RAHN BAHIA, LTD. ON

OCTOBER 12, 1994

C & 7 COMMERCE AND INDUSTRY INSURANCE COMPANY  
Pine Street, New York, N.Y. 10270

A Capital Stock Company  
(herein called the "Company")

FLORIDA STORAGE TANK THIRD-PARTY LIABILITY  
AND CORRECTIVE ACTION POLICY  
DECLARATIONS

This is a Claims-Made and Reported Policy - It includes these  
Declarations and the attached Application - Please Read Carefully.

POLICY NUMBER : FPL5876475

Item 1: NAMED INSURED  
ADDRESS

RAHN BAHIA MAR, LTD  
801 SEABREEZE BLVD  
FT LAUDERDALE, FL 33316

Item 2: POLICY PERIOD: From JUN 30, 1994 To JUN 30, 1995 12:01 AM Standard  
at the address of the NAMED INSURED shown above.

Item 3: LIMIT OF LIABILITY: UP TO \$ 1,000,000 Each Incident  
\$ 2,000,000 Aggregate

Item 4: DEDUCTIBLE:	IPTF :	ELIGIBLE	INELIGIBLE
Coverage A. Third-Party Liab	\$	<u>500</u>	\$ <u>N/A</u>
Coverage B. Corrective Action	\$	<u>300,000</u>	\$ <u>N/A</u>

Item 5: COVERED STORAGE TANK SYSTEM(S) See Attached ENDORSEMENT #1

Item 6: RETROACTIVE DATE:  
Coverage A. Third-Party Liab JUN 30, 1994  
Coverage B. Corrective Action JUN 30, 1994

Item 7: POLICY PREMIUM \$ 976

BROKER: Florida Petroleum Liability Insurance Program Administrators, Inc.  
317 Riveredge Blvd, P O Box 1947, Cocoa, Florida, 32923

DATE: DEC 8, 1994

BY: Wendell Harris  
Authorized Representative

57612 (6/93)

201589

**ENDORSEMENT #1**

Page 1

RAHN BAHIA MAR, LTD

**FPL5876475**

It is hereby understood and agreed that Item #5 of the Declarations, Covered Storage System(s), shall include only the following :

LOC# 1      BAHIA MAR YACHTING CENTER  
(068501589)

801 SEABREEZE BLVD  
FORT LAUDERDALE FL 33316162

UNIT#	GROUND INDIC	CAPACITY (# GALS)	TANK CONTENTS	INSTALL DATE	I.P.T.F. ELIGIBLE
1	UNDER	8,000	VEHICLE DIESEL	1981	YES
2	UNDER	8,000	UNLEADED GAS	1981	YES
3	UNDER	8,000	VEHICLE DIESEL	1981	YES

[illegible]

**EXHIBIT "D"**

**CAPITAL IMPROVEMENTS**

1.	Exterior and sitework	\$ 359
2.	Docks	292
3.	Marina Building	35
4.	Retail Pool Building	75
5.	Tower - Back of House	75
6.	Waterfront Guestrooms	70
7.	Ballroom & Restrooms	603
8.	Lobby and Meeting Rooms	125
9.	Tower Elevators	220
10.	Restaurant	207
11.	Tower Guestrooms	185
12.	Mechanical Building	690
13.	Lease Space Improvements	25
14.	General Contractor	100
15.	Communication Equipment	473
16.	Laundry and Kitchen Equipment	250
17.	Room Supplies	150
18.	FF&E Rooms & Food & Beverage	1,346
19.	Architect and Engineer Fees	595
		<hr/>
		<b>\$6,000</b>

# RADISSON BAHIA MAR BEACH RESORT

## 1. Exterior & Sitework

The entry of the resort will be reconfigured to create a circular plaza and drop-off area with the paid parking entrance moving west of the hotel front door. Additionally, a wall system for signage will flank the revised entry. A pedestrian plaza will be constructed to entice the pedestrian traffic along Seabreeze Boulevard to enter the site and use the resort amenities.

A signage program will be developed in order to identify the Radisson Bahia Mar Beach Resort and general pedestrian and vehicular directional signage will be added.

## 2. Docks

The 350 slip marina shall receive upgrading of facilities to include utility upgrades and distribution. Electrical, cable t.v., telephone and water systems shall be evaluated and repaired or upgraded as needed. Additionally, the structural condition of the docks shall be determined, and repaired as necessary, to include pilings, decks and finger piers.

## 3. Marina Building

The administration area of the Bahia Mar Marina shall be renovated consolidate the functions of marina check-in, fuel dock and marina administration into a concise area providing the marina guest with a efficient location for marina activities.

## 4. Retail / Pool Building

The renovation shall include the marina service functions such as marina coin laundry and marina showers. Additionally, the employ cafeteria shall be reconfigured and expanded along with a fitting ou additional meeting space in what is currently the General Store.

## 5. Tower - Back Of House

The employee service area and support space shall be renovated to provide better facilities.

6. Waterfront Guestrooms

The 115 Marina Wing guestrooms shall be renovated to include new plumbing and air conditioning equipment for each room & corridors. The guestroom baths shall receive new tile, wall surface applied using a duraplex coating and painting of all trim. All new carpet, furniture and lighting fixtures for the rooms and corridors shall be provided.

7. Ballroom & Restrooms

This work will involve the upgrade of lighting, wall finishes, doors and hardware in the main ballroom. Additionally, the two large sets of restrooms will be renovated and equipped to provide an ADA accessible and equipped bathroom.

8. Lobby & Meeting Rooms

A lobby redo will be accomplished to include upgrade of all finishes and lighting along with new furniture. The lobby front desk will be reconfigured to allow for three terminal locations for check-in / check-out. A major element will be the removal of the lowest level bridge system to open up the lobby and increase efficiency in circulation. A second floor meeting room shall be created by renovating the Harbor Lights Lounge into a meeting and catering room suitable for receptions, conferences or audio / visual presentations.

9. Tower Elevators

The program will be to replace the generator equipment with current state of the art solid state microprocessor equipment for the two tower passenger cars. Additionally, one swing car will be designated as a service car with elimination of all front door openings. The elevators will be modernized to include the ADA required equipment and locations.

10. Restaurant Redo

The Seaview Restaurant will be renovated to create a +/- 130 seat restaurant and +/- 50 seat bar/lounge. The existing kitchen will serve the renovated dining room. Additionally, a buffet line will be added to the restaurant to allow for buffet style dining to be offered. A new circulation stair shall be constructed to allow the public to circulate from the newly created pedestrian plaza up to the second floor restaurant.

11. Tower Guestrooms

A similar program to the Marina Wing Guestrooms will be undertaken in the 183 Tower Rooms. New thru wall A/C units, new plumbing fixtures, vanities, lighting, wall finishes along with a complete new furniture, fixture and equipment package will be installed.

12. Mechanical

Upgrades to mechanical equipment will be performed in order to obtain the maximum efficiency out of each piece of equipment.

13. Lease Space Improvements

The retail space on the property will be renovated to create a logo shop with normal resort sundries in addition to logo type apparel. Also, the retail corridor of the main building will be improved to create a retail arcade to showcase the existing resort retail in addition to attracting new tenants.

14. General Contractor

This item of the budget is to cover the cost of general conditions, overhead and fee for the general contractor for the project. We expect to engage two (2) major general contractors which shall divide the major work into site and public space versus the guestroom renovation.



### 15. Communication Equipment

**This budget category includes the upgraded telephone switch, new phone sets, relocation of PBX to front desk area, Property Management System, Point of Sale system and the interior signage and graphics package.**

## 16. Laundry & Kitchen Equipment

The replacement and purchase of new equipment along with the repair, adjustment, calibration and cleaning of the existing kitchen equipment makes up the majority of this budget item.

The laundry equipment will be evaluated and replaced as necessary.

## 17. Room Supplies

The equipping of the guestrooms and front office supplies are included in this item. Purchases such as linen, hangers, printed material, guest amenities, in-room supplies are all a part of the guestroom supplies.

The cost for front office forms, folios and the like are also part of this budget item.

18. Furniture, Fixtures & Equipment Rooms & Food & Beverage

**All of the new furnishings to include complete guestroom package of case goods, seating, lighting, carpet, t.v.'s, clock radios and luggage racks make up this item.**

In the food, beverage and the lobby areas, the FF&E shall include seating, tables and bases, banquettes, artwork, planters, plants and artifacts.

EXHIBIT "J"

19. Architectural & Engineering Fees

The entire cost of design of the renovated facilities is carried in this line item. Additionally, the project management cost to administer the project is included.

Some of the design discipline are architect, structural engineer, civil engineer, mechanical engineer, electrical engineer, geotechnical engineer, vertical transportation study, survey, interior design, landscape architect, environmental engineer, site signage survey and lenders inspection.

20. Contingency

This budget item is included to cover the cost of unforeseen conditions in the work. The contingency could also be used to upgrade an area which due to market analysis, we may want to add to the scope of the renovations.

EXHIBIT "D"

<u>Legend</u>	<u>Current Tenant</u>	<u>Sq. Ft.</u>	<u>Annual Rent</u>
1	Carrazza, Inc.	1,796	\$ 61,064
2	Leadship America, Inc.	1,959	58,776
3	Frank Gordon Yacht Sales, Inc.	936	18,720
4	Charles P. Irwin Yacht Brokers, Inc.	2,503	55,748
5	Prof. Diving Charters of Florida, Inc. & Prof. Diving Schools of Florida, Inc.	2,460	54,120
6	Deep Sea Charters, Inc. D/B/A Windridge Yacht Charters	2,472	59,328
8	Richard Bertram, Inc.	3,557	64,020
9	Curtlin Corporation (Arella Salon)	730	12,000
10	Yachting Bliss	360	6,300
11	Water Taxi of Fort Lauderdale, Inc.	3,250	90,000
13	Jangles, Inc.	345	12,075
14	Omni Properties, Inc.	<u>493</u>	<u>17,250</u>
		<u>20,861</u>	\$ <u>509,412</u>

EXHIBIT "E"

**EXHIBIT "F"**

Mortgage executed by Bahia Mar Hotel and Yachting Center, Inc., a Delaware corporation, to Citibank, N.A., dated August 11, 1980, recorded August 14, 1980 at Official Records Book 9066, Page 490, as modified by Future Advance Agreement dated as of June 30, 1981, and recorded in Official Records Book 9827, Page 256; Future Advance Agreement dated May 12, 1982 and recorded in Official Records Book 10239, Page 129; Mortgage Modification Agreement dated as of March 9, 1992 and recorded in Official Records Book 19380, Page 878; Mortgage Modification Agreement dated as of June 30, 1993 and recorded in Official Records Book 20932, Page 10, as affected by Agreement of Assumption recorded in Official Records Book 10209, Page 888, as affected by Transfer and Assignment by Citibank, N.A. to Citicorp Real Estate, Inc., dated June 30, 1994, recorded July 1, 1994 in Official Records Book 22333, Page 897; and as modified by Modification of Leasehold Mortgage dated June 30, 1994, recorded July 1, 1994 in Official Records Book 22333, Page 901, all of the Public Records of Broward County, Florida.

RECORDED IN THE OFFICIAL RECORDS BOOK  
OF BROWARD COUNTY, FLORIDA  
COUNTY ADMINISTRATOR

BK2316860000

**BAHIA MAR**  
**PROPOSED FORM OF MOTION**  
**CAM 17-0449**

I move that the City Commission authorize Rahn Bahia Mar, LLC. to submit development permit applications relating to improvements to the Bahia Mar Property, except that such authorization shall not be construed as consent by the City Commission to major alterations, changes or additions to the leased Property required by Article 24.0 of the Bahia Mar Lease, or approval by the City Commission of the underlying project or proposed development, or a grant to Rahn Bahia Mar LLC of the City Commission powers of approval, whether in its quasi-judicial, police, regulatory or proprietary capacity, over the proposed project.

OFIR-1  
Regular Meeting 4/4/2017  
April 4, 2017  
Provided by  
Suzee and  
Jerry Bailey

Dear Mayor Seiler,

I was hoping to speak to you this evening on behalf of many Nurmi Isles residents, in regard to the ever-increasing problem of short-term vacation rentals, and party houses, eroding our quality of life here in our beautiful local South Florida neighborhoods. My question to you was going to be, "where does the City stand on this issue?" And if the City does want to prevent this Bill from being passed, how are you going about it? Do we have a team up in Tallahassee speaking for the people who oppose this Bill? Who would that be? I did read that a prominent Lobbyist named Judy Stern was Lobbying in favor of this Bill. Is this correct? If so, am not mistaking that she is also Chairperson of the Charter Review Advisory Board, as well as Campaign Manager for City Commissioner Bruce Robert Mayoral run? Could there be a conflict of interest here that could affect those of us opposed to this Bill?

I did see that as we understand, there was a Bill to be voted on in the Florida Senate Community Affairs Committee on Monday, to eliminate cities ability to regulate vacation and party rentals. This vote was postponed. But action needs to be taken now so that this law, CS/SB 188, a Bill that negatively effects most Florida homeowners and local neighborhood's quality of life, will not be passed! Is there a mandate being drawn up representing our City's stand on this Bill? If so is it being done promptly? This vote has already passed with the Regulated Industry Committee by a vote of 7 to 2, and as I stated before, the vote with the Community Affairs Committee was postponed yesterday, but will be voted on soon. We must act immediately or risk loosing our beautiful Fort Lauderdale Community to lawmakers in Tallahassee who are on the side of this Growing Monster invading our local Neighbors, Airbnb. These elected Senators seem to have forgot the local residents, voters, families, who wish to save their local communities quality of life, land value and neighborhood security.

We aren't against rentals, but worry that the regulations and mandates that Fort Lauderdale has in place will be "Clawed Back" if this Bill, CS/SB188 passes in Tallahassee. We also are very concerned that these regulations (supposedly some of the most strict in the state), are not being enforced by our local Police Department, therefore putting homeowners in a very difficult situation. Especially since many of these home-rental properties are now turning into Vacation Rentals, and Party houses, some are being rented on a daily basis. This issue has affected us personally. My husband and I, and our neighbors have contacted you and the Police Department many times concerning a Party House that is across the canal from our home. On several occasions admission bracelets were issued, bouncers retained, and the amplified music was audible inside our home over 120 feet away. There were well over 100 people present at many of these parties. Guest arrived at these parties by cars blocking the streets, and large yachts making our canals almost impassable. These parties

have been happening almost twice a month, making it almost impossible for us to enjoy our own outdoors. We, and our surrounding neighbors have called police, reports were made to the building department, but there has been no resolution from either front. So consequently this homeowner, short-term party house, vacation rental person continues his bad behavior. We have sent pictures as well as video to you and the Police Department. Unfortunately nothing has been done about this problem. In fact, the person that owns this Weekend Party House even got smart and hired an off-duty policeman as a bouncer for one of his parties. Could this be a conflict of interest? Need I say more?

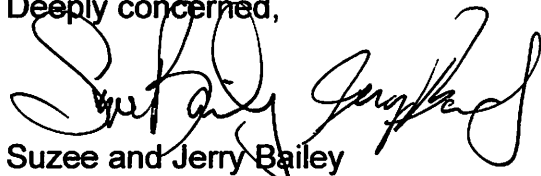
\*Another incident that happened recently in our neighborhood involved an absentee homeowner using his home as a short-term rental. The rental agency rented to a number of young adults that proceeded to invite scores of other youngsters for an outrageous weekend of parties. These parties not only disturbed the neighborhood residents, but also demolished the homeowner's home. Kids were jumping off balconies, into the canals, and there were reports of the homeowner's TV's floating in the canals.

\*Another example of homes being used as small businesses on our street is the residence at 82 Nurmi drive, which is being used as a hotel for airline employees. In our years of living here, we have witnessed at least 7 different pilots in uniform coming and going from this house. There are usually at least 5 to 7 cars parked in the parking lot in front of this residence, with license plates ranging from Texas to Georgia.

\*Another example on our street is a home being used as a spring break vacation house, bachelor party house, as well as various other social events. We, as well as others in our neighborhood have witnessed these short-term tenants wandering our streets in various stages of intoxication. Some of the short-term rental behavior we have to endure is public urination in our canals, vomiting on streets, late night screaming and arguing. Not your typical small neighborhood behavior, but this is what short-term vacation rentals seem to consistently bring. There is also a home being used as a restaurant, and another being used as a yacht sale and dockage facility.

As I'm sure you well know the stories are endless. Not only in our local community, but across the US, and the Atlantic, but this problem is affecting us personally and we urge you to vote No on this issue. We have videos and pictures if needed upon request.

Deeply concerned,

A handwritten signature in black ink, appearing to read 'Suzee and Jerry Bailey', written over a printed name.

Suzee and Jerry Bailey

**Jeff Modarelli**

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**Subject:**

FW: Galleria Plat: Request for Continuance

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**From:** Stephen K. Tilbrook [mailto:Stephen.Tilbrook@gray-robinson.com]

**Sent:** Tuesday, April 4, 2017 3:08 PM

**To:** John P. Seiler (jack.seiler@fortlauderdale.gov) <jack.seiler@fortlauderdale.gov>; Bruce Roberts (broberts@fortlauderdale.gov) <broberts@fortlauderdale.gov>; Dean J. Trantalis (DTrantalis@fortlauderdale.gov) <DTrantalis@fortlauderdale.gov>; Robert L. McKinzie (rmckinzie@fortlauderdale.gov) <rmckinzie@fortlauderdale.gov>; Romney Rogers (rrogers@fortlauderdale.gov) <rrogers@fortlauderdale.gov>

**Cc:** Lee R. Feldman - City of Fort Lauderdale (LFeldman@fortlauderdale.gov) <LFeldman@fortlauderdale.gov>; Peter Flotz (pflotz@imgroup.us) <pflotz@imgroup.us>; Courtney Crush <ccrush@crushlaw.com>

**Subject:** FW: Galleria Plat: Request for Continuance

Dear Mayor and Commissioners:

Please see below our request for a continuance of the Galleria Plat item on this evening's City Commission agenda. I will be at the meeting to answer any questions.

Thank you for your attention and consideration in this regard.

Stephen Tilbrook

**Stephen K. Tilbrook | Shareholder**  
**GRAY | ROBINSON**

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**From:** Stephen K. Tilbrook

**Sent:** Monday, April 03, 2017 4:09 PM

**To:** 'Jim Hetzel'

**Cc:** D'Wayne M. Spence (DSpence@fortlauderdale.gov); Mark Trouba (mark.trouba@am.jill.com); Melissa Milroy - The Galleria at Fort Lauderdale (melissa.milroy@am.jill.com); Peter Flotz (pflotz@imgroup.us); Clayton Flotz (Clay@imgroup.us); 'Courtney Crush (ccrush@crushlaw.com)'; 'Michael Vonder Meulen'; Lee R. Feldman - City of Fort Lauderdale (LFeldman@fortlauderdale.gov)

**Subject:** RE: Galleria Plat: Request for Continuance

Hello Jim:



We understand that the Galleria Plat was continued to the April 4, 2017 City Commission meeting so that the Galleria Plat could be considered concurrent with the Live Galleria Site Plan, and so that the Galleria Plat could be considered in light of an allocation of flexibility units.

Since the Live Galleria Site Plan and Rezoning is not yet ready for City Commission consideration, please consider this email a request for a continuance of the Galleria Plat item until such time that the Galleria site plan and rezoning is scheduled for City Commission consideration. In the event that a time certain is required for the continuance, please consider this email a request for a 60 day continuance.

Thank you for your attention and consideration in this regard.

Steve Tilbrook

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**From:** Stephen K. Tilbrook

**Sent:** Wednesday, March 15, 2017 5:44 PM

**To:** 'Jim Hetzel'

**Cc:** D'Wayne M. Spence ([DSpence@fortlauderdale.gov](mailto:DSpence@fortlauderdale.gov)); Mark Trouba ([mark.trouba@am.jll.com](mailto:mark.trouba@am.jll.com)); Melissa Milroy - The Galleria at Fort Lauderdale ([melissa.milroy@am.jll.com](mailto:melissa.milroy@am.jll.com)); Peter Flotz ([pflotz@imgroup.us](mailto:pflotz@imgroup.us)); Clayton Flotz ([Clay@imgroup.us](mailto:Clay@imgroup.us)); 'Courtney Crush' ([ccrush@crushlaw.com](mailto:ccrush@crushlaw.com)); 'Michael Vonder Meulen'; Lee R. Feldman - City of Fort Lauderdale ([LFeldman@fortlauderdale.gov](mailto:LFeldman@fortlauderdale.gov))

**Subject:** RE: Galleria Plat: Continuance to April 4, 2017

Hello Jim:

Thanks for your consideration at the City Commission meeting last week for the Galleria Plat. We understand that the Galleria Plat item was continued to the April 4 City Commission meeting.

As stated at the Commission meeting last week, since the Galleria Plat will now proceed to the City Commission concurrent with the rezoning, site plan and allocation of flex units, we will pursue the Galleria Plat as presented at the November 2016 Planning and Zoning Board hearing.

Accordingly, we withdraw the revised plat note as proffered in the attached letter.

Thank you and please contact me with any questions regarding this notice.

Yours very truly,

Stephen Tilbrook

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**From:** Stephen K. Tilbrook

**Sent:** Friday, February 17, 2017 4:35 PM

**To:** 'Jim Hetzel'

**Cc:** D'Wayne M. Spence ([DSpence@fortlauderdale.gov](mailto:DSpence@fortlauderdale.gov)); Mark Trouba ([mark.trouba@am.jll.com](mailto:mark.trouba@am.jll.com)); Melissa Milroy - The Galleria at Fort Lauderdale ([melissa.milroy@am.jll.com](mailto:melissa.milroy@am.jll.com)); Peter Flotz ([pflotz@imgroup.us](mailto:pflotz@imgroup.us)); Clayton Flotz ([Clay@imgroup.us](mailto:Clay@imgroup.us)); 'Courtney Crush' ([ccrush@crushlaw.com](mailto:ccrush@crushlaw.com)); 'Michael Vonder Meulen'

**Subject:** Galleria Plat: Revised Plat Note

Hello Jim:

Thanks for speaking with me earlier today regarding the Galleria Plat as scheduled for the March 7 City Commission meeting. Per our conversation, please find attached a letter which addresses the revised plat note.

Please review and contact me with any questions.

**GALLERIA PLAT MEETING REMARKS-CITY COMMISSION APRIL 4, 2017**

OUR COMMUNITY HAS BEEN CAREFULLY MONITORING THE GALLEIA SITE AND ALL AVAILABLE PUBLIC INFORMATION SINCE THE MARCH 7, 2017 CITY COMMISSION MEETING.

AT THAT TIME, THERE WAS AN AGREEMENT AND MOTION PASSED TO DEFER THE PLAT REQUEST TO APRIL 4, 2017 MEETING. THE APPLICANT ALSO STATED THEY WOULD BRING THE SITE PLAN/ID ZONING CONCURRENTLY.

WE ARE STUNNED AND DISMAYED TO RECEIVE THE AGENDA FOR TONIGHT'S MEETING AND LEARN THAT ITEM R4 IS SCHEDULED FOR A QUASI JUDICIAL HEARING ON THE PLAT REQUEST. THERE IS NO AGENDA ITEM FOR THE SITE PLAN/ID ZONING AS AGREED.

THERE ARE NO NOTICE SIGNS POTTED AROUND THE GALLERIA OR NEIGHBORHOOD NOTIFICATIONS OF TONIGHT'S HEARING. THE ONLY NOTICE SIGNS ARE FROM APPROXIMATELY FEBRUARY 20<sup>TH</sup> ADVISING OF THE MARCH 7<sup>TH</sup> PLAT HEARING.

I REVIEWED THE MINUTES AND THE VIDEO TAPE OF THE MARCH 7<sup>TH</sup> MEETING AND NOTED THAT AT 3:08 AND 26 SECONDS MARK THERE WAS A DISCUSSION AND AGREEMENT BETWEEN THE COMMISSION AND STEVE TILBROOK, ESQ., REPRESENTING THE APPLICANT. MR. TILBROOK, ESQ. STATED, AND I QUOTE:

**"WE ACCEPT A DEFERRAL OF THE ORIGINAL PLAT APPLICATION AND WE WITHDRAW OUR REVISED PLAT NOTE. BOTH THE PLAT NOTE AND A SITE PLAN WILL BE BROUGHT BACK CONCURRENTLY. WE PREFER A DEFERRAL AND WILL PROCEED WITH THE ORIGINAL APPLICATION".**

A MOTION WAS THEN PASSED TO DEFER THE ENTIRE MATTER TO THE APRIL 4<sup>TH</sup> MEETING.

PLEASE NOTE THAT JUST PRIOR TO THE ACTIVITY ABOUT A DEFFERAL, CONVERSATIONS ENSUED AMONG COURTNEY CRUSH, ESQ., STEVE TILBROOK, ESQ., GEORGE PLATT, ESQ. AND PETER FLOTZ. IF MR. TILBROOK WAS NOT STATING CORRECTLY THE POSITION OF HIS AND MRS. CRUSH'S CLIENT, WHY WAS AN OBJECTION NOT MADE AT THAT TIME BY APPLICANT?

WHY ARE THEY BEING ALLOWED TO BRING THE PLAT HEARING WITH NO NOTICE TO OUR COMMUNITY? WHY ARE THEY BEING ALLOWED TO BRING THIS PLAT HEARING WITHOUT THE ID ZONING/SITE PLAN CONCURRENTLY AS AGREED? CONTRARY TO CITY COMMISSION SUGGESTIONS, TO THE BEST OF MY KNOWLEDGE THERE HAS BEEN ZERO CONTACT WITH COMMUNITY FROM THE APPLICANT AND NO ANSWERS TO THE QUESTIONS RAISED AT MARCH 7<sup>TH</sup> HEARING.

WE ARE EXACTLY IN THE SAME POSITION AS WE WERE A MONTH AGO, ADDRESSING THIS ISSUE NOW IS SIMPLY CONTINUING TO PLACE THE CART IN FRONT OF THE HORSE, A POINT THAT CITY MANAGER LEE FELDMAN MADE IN HIS LETTER TO THE COMMISSION RECOMMENDING A DENIAL OF THE PLAT BECAUSE ID ZONING HAS NOT BEEN APPROVED AND NO FLEX UNITS HAVE BEEN ALLOCATED.

THE PLAT PROPOSAL FOR TONIGHT'S MEETING DOES NOT HAVE AN APPROVED SITE PLAN TO SUPPORT THE REQUESTS LISTED ON THE PLAT NOTE.

WE REQUEST THAT THE COMMISSION MAKE THE APPLICANT COMPLY WITH THE AGREEMENT OF MARCH 7<sup>TH</sup>. OUR COMMUNITY SHOULD HAVE NOTICE WHEN THE PLAT/ID ZONING/SITE PLAN WILL BE HEARD TO BE PREPARED WITH OUR POSITIONS STRONGLY OPPOSING ID ZONING FOR LIVE GALLERIA PROJECT.

THE LIVE GALLERIA TEAM HAS A NEIGHBORHOOD MEETING SCHEDULED FOR APRIL 26<sup>TH</sup> WITH CORAL RIDGE HOMEOWNERS. CLEARLY, THEY HAVE NO INTENT OF BRINGING FORWARD THE ID ZONING/SITE PLAN IN FORESEEABLE FUTURE. IT HAS BEEN ALMOST SIX MONTHS SINCE PLANNING AND ZONING BOARD VOTED 6-2 TO DENY THE ID ZONING APPLICATION.

THIS PROPOSAL HAS BEEN ACTIVE SINCE OCTOBER 2013 AND THE COMMUNITY AND THE CITY HAVE BEEN INVOLVED FOR THREE YEARS. WHEN DO WE GET CLOSURE? HOW MUCH TIME AND ASSETS SHOULD THE CITY BE SPENDING ON THIS PROJECT?

SINCERELY,

THEO FOLZ

PRESIDENT CORINTHIAN CONDO ASSOCIATION