

**OMNIBUS AMENDMENT
(COMMUNITY MARITIME PARK PROJECT)**

This Omnibus Amendment dated May 17, 2010 (this "Amendment") by and between the CITY OF PENSACOLA, a Florida municipal corporation (the "City") and COMMUNITY MARITIME PARK ASSOCIATES, INC., a Florida not-for-profit corporation ("CMPA") amends and supplements that certain Master Lease dated March 27, 2006 between the City, as Lessor and CMPA, as Lessee (the "Master Lease") and that certain Master Development Agreement, also dated March 27, 2006 between the City and CMPA (the "MDA"). Terms not otherwise defined herein shall have the meanings described to them in the Master Lease or MDA, as applicable.

RECITALS

The Master Lease and MDA provide for the development of the leased property for a project known and referred to as The Community Maritime Park. The Master Lease and MDA further contemplate a "City Contribution" of up to \$40,000,000 to the Project to be applied to the cost of the Site Preparation Project and designing, constructing, equipping, installing and completing the Public Improvements and, to that end, in December 2009 the City issued \$6,715,000 of Redevelopment Revenue Bonds, Series 2009 A (the "Series A Bonds") and \$38,925,000 of Redevelopment Revenue Bonds, Series 2009 B (the "Series B Bonds" and, together with the Series A Bonds, the "Bonds").

Prior to the issuance of these Bonds, the City was presented with the opportunity to increase the funds available for the Project by more than \$10,000,000 through the use of New Market Tax Credits as determined under Section 45D of the Internal Revenue Code of 1986 and Section 288 of the Florida Statutes. The use of such federal and state tax credits is contemplated in the offering document for the sale of the Bonds.

The parties desire to access these additional funds and to amend the Master Lease and the MDA to enable CMPA to be a "qualified active low-income community business as such term is used in §45D(d)(2) of the Code (a "QALICB") and to engage in a "qualified business" as such term is used in §45D(d)(3) of the Code. Thus, the City Contribution will be advanced as a loan to CTA Investment Fund, LLC (the "Leverage Loan"), which will invest the proceeds of that Loan, together with its own funds of \$16,192,774, in three separate community development entities ("CDEs") which will, in turn, lend to CMPA \$54,079,902 (the "QLICI Loans") substantially all the proceeds of which will be used by CMPA to pay Project costs incurred by or on behalf of CMPA. The City will serve as disbursing agent for the CDE's with respect to the proceeds of the QLICI Loans.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants set forth below and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. As used herein, the Project means the "Public Improvements" as defined in §2.01.55 of the Master Lease, excluding the Conference Center, that is the

improvements on the Leased Property for the use by the public, including the Community Multi-Use Facility and the Park together with the Site Preparation Project.

2. CMPA shall be solely responsible for payment of all costs of development, construction, operation and maintenance of the Project and shall reimburse the City for any such costs and any predevelopment costs advanced by the City prior to the funding of the QLICI Loans. Notwithstanding anything to the contrary in Section 8.03.09 of the Master Lease, CMPA shall be responsible for obtaining its own sales tax exemption for the purchase of construction materials and shall not rely upon any such exemption available to the City.
3. CMPA shall be entitled to all revenues from users of the Project.
4. CMPA shall have no interest in the Private Improvements located on the Leased Property and, except as contemplated in the Site Improvement Project, shall not be responsible for any costs of development, construction, operation or maintenance, including taxes and insurance, with respect to the Private Improvements. It shall, instead, act as agent of the City in making such portions available to developers of the Private Improvements on terms subject to approval by the City. All amounts paid by such developers or sublessees for use of the Private Improvements or the land on which they are situated shall be paid to the City. Except as provided in paragraph 8 below, nothing herein shall be deemed to prohibit CMPA from utilizing the proceeds of the QLICI Loans for the development of sites or building pads for the Private Improvements, or for any mixed-use projects on the Leased Property.
5. Notwithstanding anything to the contrary in Sections 19.03 and 32.01 of the Master Lease, CMPA may finance the Project with the QLICI Loans which it may secure with mortgages on its leasehold. The interest of the City as Lessor shall not be subordinate to any such mortgage.
6. Notwithstanding anything to the contrary in Section 10.01.04 of the Master Lease, throughout the term of the Master Lease, CMPA shall have the exclusive right to own, operate, manage, sublease, finance and otherwise deal with the Project, subject to the requirements of the QLICI Loans, but without any approvals or consents from the City.
7. The City shall have no liability, either primarily or as guarantor, for the repayment of the QLICI Loans.
8. As the QLICI Loans are being funded, indirectly, with the proceeds of the Series B Bonds, CMPA agrees to use the proceeds of the QLICI Loans only for purposes permitted under the terms of such Bonds.
9. In furtherance of the foregoing provisions and for the purpose of clarity the following specific changes are hereby made to the provisions of the Master Lease:

- a. The definition of “City Contribution” in the Master Lease is revised to read as follows:

“City Contribution means the Leverage Loan.”
- b. Section 8.01 is deleted, except for the requirement that the Public Improvements be constructed in accordance with plans and specification approved by Lessor.
- c. In the first sentence of Section 12, the term “Lessor is deleted and replaced with “Lessee.”
- d. Sections 14, 15 and 32.01 are deleted.
- e. The second sentence of Section 19.05.02 is revised to read as follows:

“The Parties intend that the Parcels of the Leased Property on which the Public Improvements are to be located be exempt from ad valorem taxation, as such improvements will be owned by Lessee, which has been determined to be exempt from income tax under Section 501(a) of the Code and described in Section 501(c)(3) of the Code, and will be used for the charitable purposes of Lessee.”

- f. Section 25.04 is revised to read as follows:

As long as it is available, Lessee will maintain property insurance on the Public Improvements and Lessor will maintain (or require Private Developers to maintain) insurance on the Private Improvements.
- g. Section 26.03 is amended by deleting the phrase “redemption of the Bonds” at the end of such section and replacing it with “repayment of the QLICI Loans.” For the avoidance of doubt, the restoration obligations of Lessee in Section 26 shall be limited to Public Improvements.

10. In furtherance of the foregoing provisions and for the purpose of clarity the following specific changes are hereby made to the provisions of the MDA:

- a. The definition of “Interlocal Agreement” is amended to read as follows:

“‘Interlocal Agreement’ means the Amended and Restated Interlocal Agreement between the City, CMPA and the CRA, dated May 17, 2010 entered into pursuant to Sections 163.01 and 163.400, *Florida Statutes*, which establishes certain duties and responsibilities of each party thereto pertaining to the Project and the implementation of this Agreement, including the payments of funds from the Trust Fund to the City for payment of the Series A Bonds and, to the extent payments on the Leverage Loan are insufficient, the Series B Bonds and to CMPA to support its operations, including the payments due on the QLICI Loans.”

b. Section 6.04 is deleted, effective as of the date of commencement of the Master Lease.

11. This Amendment is intended to enable CMPA to be a QALICB, to engage in a “Qualified Business” and to borrow the QLICI Loans and shall be interpreted consistently therewith.

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

Witnesses:

CITY:

CITY OF PENSACOLA, FLORIDA, A
MUNICIPAL CORPORATION OF THE STATE
OF FLORIDA

[Signature]

Name: EDWARD E. STEARS

By: [Signature]
Name: Alvin G. Coby
Title: City Manager

[Signature]

Name: Betty A. Allen

STATE OF FLORIDA)

: ss

COUNTY OF ESCAMBIA)

The foregoing instrument was acknowledged before me this 24th day of July, 2010, by Alvin G. Coby, the City Manager of CITY OF PENSACOLA, FLORIDA, a municipal corporation of the State of Florida, on behalf of such corporation, who is personally known to me of who has produced _____ as identification.

(Seal)



[Signature]

Notary Public

CMPA:

COMMUNITY MARITIME PARK
ASSOCIATES, INC., a Florida not-for-profit
corporation

[Signature]

Name: EDWARD E. STEARS

By: [Signature]
Name: Eddie S. Todd Jr.
Title: Chairman

[Signature]

Name: Betty A. Allen

STATE OF Florida)
COUNTY OF Escambia ;^{ss}

The foregoing instrument was acknowledged before me this 24th day of May 2010, by Eddie S. Todd, Jr., the Chairman of COMMUNITY MARITIME PARK ASSOCIATES, INC., a Florida not-for-profit corporation, on behalf of such corporation, who is personally known to me of who has produced _____ as identification.

(Seal) TERRI KUVACH
Notary Public

