

GROUND LEASE
between

JOE PCOZ, LLC.,
a Florida limited liability company
solely owned and controlled by
JOE QOZ FUND, INC., a Florida corporation
solely owned and controlled by
THE ST. JOE COMPANY, a
Florida corporation

and

The CITY OF PANAMA CITY,
a Florida municipal corporation

DATED AS OF
August 25, 2020

TABLE OF CONTENTS

ARTICLE I RECITALS AND EXHIBITS AND DEFINITIONS..... 11

Section 1.1 Recitals and Exhibits..... 11

Section 1.2 Defined Terms..... 12

ARTICLE II GENERAL TERMS OF LEASE..... 22

Section 2.1 Lease of Leased Property to JoePC..... 22

Section 2.2 Restrictive and Affirmative Covenants; Construction and Use of Related Facilities..... 25

Section 2.3 “As Is,” “Where Is,” and Present Condition of the Leased Property; Water and Sewer Capacity..... 33

Section 2.4 Rent and Other Payments..... 34

Section 2.5 Covenants for Payment of Public Charges by JoePC..... 39

Section 2.6 City’s Proprietary Capacity Only..... 41

ARTICLE III CONSTRUCTION OF IMPROVEMENTS..... 41

Section 3.1 Pre-Construction Responsibilities/Conformity of Plans..... 41

Section 3.2 Conformance with Governmental Requirements..... 42

Section 3.3 Approved Plans..... 43

Section 3.4 Facilities to be Constructed..... 43

Section 3.5 Schedule of Performance..... 43

Section 3.6 Access..... 43

Section 3.7 Construction Period..... 44

Section 3.8 Status Reports..... 45

Section 3.9 Certificate of Final Completion..... 45

Section 3.10 Connection of Buildings to Utilities; Impact Fees and Assessments..... 47

Section 3.11 Permits and Approvals..... 47

Section 3.12 Compliance with Laws..... 48

Section 3.13 Alterations and Renovations..... 48

Section 3.14 Other Development..... 48

ARTICLE IV LAND USES..... 48

<i>ARTICLE V TRANSFERS</i>	48
<i>Section 5.1 Purpose of Restrictions on Transfer</i>	49
<i>Section 5.2 Transfers</i>	49
<i>Section 5.3 Permitted Transfers</i>	49
<i>Section 5.4 Obtaining City’s Consent to Transfer</i>	51
<i>Section 5.5 City’s Right of First Refusal</i>	51
<i>Section 5.6 Effectuation of Transfers</i>	52
<i>Section 5.7 Subleasing</i>	52
<i>Section 5.8 Additional Provisions Relating to Split and Transfer of Total Restaurant or Total Hotel or Both Independently</i>	52
 <i>ARTICLE VI MORTGAGE FINANCING; RIGHTS OF MORTGAGEE AND JOEPC</i>	 54
<i>Section 6.1 JoePC Financing</i>	54
<i>Section 6.2 City’s Financing</i>	55
<i>Section 6.3 Notice to Lender</i>	55
<i>Section 6.4 Acceptance of Cure</i>	56
<i>Section 6.5 New Lease</i>	56
<i>Section 6.6 Delay for Foreclosure</i>	58
<i>Section 6.7 No Surrender</i>	58
<i>Section 6.8 No Subordination of Fee</i>	58
<i>Section 6.9 Transfer to a Default Tenant</i>	59
<i>Section 6.10 Recognition Agreement</i>	59
<i>Section 6.11 Lender as Beneficiary; Nonliability for Covenants</i>	60
<i>Section 6.12 Leasehold Mortgage Subordinate to City’s Option to Purchase Lease</i> ..	60
 <i>ARTICLE VII EVENTS OF DEFAULT AND REMEDIES</i>	 60
<i>Section 7.1 Events of Default by JoePC</i>	60
<i>Section 7.2 Remedies for Default by JoePC</i>	63
<i>Section 7.3 Event of Default by the City and Remedies</i>	65
<i>Section 7.4 Force Majeure</i>	65
<i>Section 7.5 Remedies Cumulative; No Waiver</i>	65

<i>Section 7.6</i>	<i>Right to Cure</i>	66
<i>Section 7.7</i>	<i>No Third-Party Beneficiaries</i>	67
<i>ARTICLE VIII PROTECTION AGAINST MECHANICS' LIENS AND OTHER CLAIMS; INDEMNIFICATION; ENVIRONMENTAL MATTERS</i>		67
<i>Section 8.1</i>	<i>JoePC's Duty to Keep Complex Free of Liens</i>	67
<i>Section 8.2</i>	<i>Contesting Liens</i>	68
<i>Section 8.3</i>	<i>Indemnification</i>	69
<i>Section 8.4</i>	<i>Environmental Matters</i>	70
<i>Section 8.5</i>	<i>Environmental Responsibilities</i>	76
<i>ARTICLE IX INSURANCE</i>		79
<i>Section 9.1</i>	<i>General Insurance Provisions</i>	79
<i>Section 9.2</i>	<i>Evidence of Insurance</i>	79
<i>Section 9.3</i>	<i>Required Coverages</i>	80
<i>Section 9.4</i>	<i>Premiums and renewals</i>	82
<i>Section 9.5</i>	<i>Adequacy Of Insurance Coverage</i>	82
<i>Section 9.6</i>	<i>City May Procure Insurance if JoePC Fails To Do So</i>	83
<i>Section 9.7</i>	<i>Effect of Loss or Damage</i>	83
<i>Section 9.8</i>	<i>Notice of Loss</i>	83
<i>Section 9.9</i>	<i>Insurance Proceeds</i>	84
<i>Section 9.10</i>	<i>Covenant for Commencement and Completion of Reconstruction and Alternative</i>	85
<i>Section 9.11</i>	<i>Waiver of Subrogation</i>	86
<i>Section 9.12</i>	<i>Inadequacy of Insurance Proceeds</i>	86
<i>ARTICLE X CONDEMNATION</i>		86
<i>Section 10.1</i>	<i>Complete Condemnation</i>	86
<i>Section 10.2</i>	<i>Partial Condemnation</i>	87
<i>Section 10.3</i>	<i>Restoration After Condemnation</i>	87

<i>Section 10.4</i>	<i>Temporary Taking</i>	88
<i>Section 10.5</i>	<i>Determinations</i>	88
<i>Section 10.6</i>	<i>Payment of Fees and Costs</i>	88
<i>ARTICLE XI QUIET ENJOYMENT AND OWNERSHIP OF IMPROVEMENTS</i>		89
<i>Section 11.1</i>	<i>Quiet Enjoyment and Liabilities</i>	89
<i>Section 11.2</i>	<i>Waste</i>	89
<i>Section 11.3</i>	<i>Maintenance and Operation of Improvements</i>	90
<i>Section 11.4</i>	<i>Ownership of Improvements During Lease</i>	90
<i>Section 11.5</i>	<i>Surrender of Leased Property</i>	90
<i>Section 11.6</i>	<i>City and JoePC to Join in Certain Actions</i>	91
<i>ARTICLE XII MAINTENANCE AND MANAGEMENT</i>		92
<i>Section 12.1</i>	<i>Good Condition and Repair</i>	92
<i>Section 12.2</i>	<i>Industry Standards</i>	93
<i>Section 12.3</i>	<i>Intentionally Omitted</i>	93
<i>Section 12.4</i>	<i>FF&E Reserve – Independent License Agreement or Permitted Transfer</i>	93
<i>Section 12.5</i>	<i>Renewal of FF&E</i>	95
<i>ARTICLE XIII MISCELLANEOUS PROVISIONS</i>		95
<i>Section 13.1</i>	<i>No Partnership or Joint Venture</i>	95
<i>Section 13.2</i>	<i>Recording, Documentary Stamps</i>	95
<i>Section 13.3</i>	<i>Florida and Local Laws Prevail; Venue</i>	96
<i>Section 13.4</i>	<i>Conflicts of Interest: City Representatives not Individually Liable</i>	96
<i>Section 13.5</i>	<i>Notice</i>	97
<i>Section 13.6</i>	<i>Estoppel Certificates</i>	97
<i>Section 13.7</i>	<i>Intentionally Omitted</i>	98
<i>Section 13.8</i>	<i>Titles of Articles and Sections</i>	99
<i>Section 13.9</i>	<i>Counterparts</i>	99
<i>Section 13.10</i>	<i>Successors and Assigns</i>	99
<i>Section 13.11</i>	<i>Entire Agreement</i>	99
<i>Section 13.12</i>	<i>Amendments</i>	99

<i>Section 13.13</i>	<i>Non-Subordination of City's Interest.</i>	99
<i>Section 13.14</i>	<i>Authorization and Approvals by the City and JoePC.</i>	100
<i>Section 13.15</i>	<i>Prevailing Party's Attorneys' Fees.</i>	100
<i>Section 13.16</i>	<i>Holidays.</i>	101
<i>Section 13.17</i>	<i>No Brokers.</i>	101
<i>Section 13.18</i>	<i>No Liability for Approvals and Inspections.</i>	101
<i>Section 13.19</i>	<i>Radon.</i>	101
<i>Section 13.20</i>	<i>JoePC Entity.</i>	102
<i>Section 13.21</i>	<i>Inflation Adjustments.</i>	102
<i>Section 13.22</i>	<i>Standard of Conduct.</i>	102
<i>ARTICLE XIV LEASE EXTENSION AND CITY OPTION TO PURCHASE</i>		103
<i>Section 14.1</i>	<i>Extension of Term.</i>	103
<i>Section 14.2</i>	<i>City Option to Purchase Lease.</i>	103
<i>Section 14.3</i>	<i>Appraisal Procedure and Valuation Methodology</i>	106
<i>ARTICLE XV RIGHT OF FIRST USE</i>		107
<i>Section 15.1</i>	<i>Generally</i>	107
<i>Section 15.2</i>	<i>Procedure to be Followed</i>	108
<i>Section 15.3</i>	<i>Extent of Rights Exercised or Declined by JoePC</i>	111

GROUND LEASE

THIS GROUND LEASE (“Lease” or “Agreement”) is made as of the ___ day of _____, 2020 (the “Effective Date”) by and between the CITY OF PANAMA CITY, a Florida municipal corporation (“City”) and JOE PCOZ, LLC., a Florida limited liability company (“JoePC”) solely owned and controlled by JOE QOZ FUND, INC., a Florida corporation solely owned and controlled by THE ST. JOE COMPANY, a Florida corporation (“St. Joe”).

RECITALS:

- A. The City is the owner of certain lands located in its downtown area commonly referred to as the Panama City Marina, more particularly described in **Exhibit A** (the “Downtown Marina Property” or here simply the “Marina Property” or the “Marina”);
- B. The Marina Property is a unique and treasured, waterfront asset of the City which has been used for a variety of public and private purposes in the past but which, with the aging and demolition of old or dysfunctional structures, has become underutilized;
- C. Concurrently with the underutilization of the Marina Property, macro-economic and social changes created the need to redevelop and revitalize the traditional, historic downtown area of the City (“Downtown”);
- D. Hurricane Michael has become an overwhelming catalyst for expediting the need to redevelop Downtown, including the Marina Property and, ironically, in many ways made redevelopment easier by literally concentrating the will and support of the public, and removing a variety of obstacles;
- E. Long before Hurricane Michael, the City recognized that the aging horizontal and foundational infrastructure of the Marina Property needed restoration or replacement and began the lengthy and expensive process of designing, replacing, restoring, and rehabilitating bulkheads, docks, and horizontal infrastructure;
- F. Long before Hurricane Michael, the City recognized that redevelopment of the Marina Property would contribute to the economic and social revitalization of Downtown in a major way, and publicly offered the Marina Property competitively to developers in hopes of attracting the investment of private capital to construct and operate new public recreation and private commercial facilities, and even offered economic incentives to make private investment more attractive;

- G. One of the reasons the City solicited proposals from developers was to test the boundaries and margins of private developers' appetite to invest in the Marina for profit;
- H. In 2015 the City received initially promising responses from two competing developers desiring to redevelop the Marina Property;
- I. One of those developers withdrew and the second, a nationally known enterprise, entered into a preliminary, non-binding agreement with the City but ultimately withdrew and introduced the City to a second developer with whom in 2017 the City entered an exclusive negotiating agreement to re-develop the Marina Property;
- J. In the first instance, the first two developers withdrew for reasons of their own but in retrospect the City believes that part of the reason was that each developer concluded that the type of redevelopment desired by the City would not be economically feasible even with the economic incentives offered by the City;
- K. In the second instance, the City terminated the negotiations because the size and uses of the development being proposed by the developer continued to grow until it became too large, too dense, and too intense to be acceptable to the City;
- L. Through these lengthy, tedious, and expensive failed attempts to induce private capital to revitalize the Marina Property and contribute to the revitalization of Downtown, the City has learned, without doubt, that in spite of the beauty and unique qualities of the Marina Property, the demographics and economy of the City severely limit its attractiveness to private developers seeking a commensurate and reasonable return on that type of investment, even when the City has offered to subsidize the cost of development by investing back into the project new taxes that will be collected from the project;
- M. In short, the City has learned that a developer willing to invest in a project that is small enough to preserve the public's use and enjoyment of the Marina Property, and that contains the uses desired by the City, must be willing and able to make a patient and long-term investment;
- N. Following the City's termination of the second set of negotiations to redevelop the Marina Property the City did not solicit additional proposals but did make it known widely and publicly through news media outlets that the City still intended to find a developer to at least begin investing in new, but acceptable, commercial uses of the Marina Property;

- O. After Hurricane Michael the entire community has an unprecedented opportunity to restore Panama City and, in the process, improve its economic health, and as the people's government the City is obligated to look to its assets and abilities to encourage healthy private development and economic growth;
- P. The City has invested in the redevelopment of Downtown by restoring and converting a former retail store into the new City Hall in the middle of Downtown;
- Q. After Hurricane Michael, other businesses and structures Downtown are being restored or, where beyond restoration, being removed clearing the way for new development;
- R. Numerous public hearings and community planning initiatives regarding Downtown and the marina and the potential of a hotel on the marina have been held and public support for a hotel on the marina is strong;
- S. The City has determined that a well-executed, mid-sized hotel on the Marina Property will, in fact, facilitate redevelopment of the marina itself, the greater Downtown and ultimately the whole City by encouraging multiple, private investments and developments by a variety of persons in the private sector;
- T. The City has also determined that investing the use of a limited area of City's treasured, waterfront property in exchange for the private development of an appropriately sized and designed hotel by a proven and accomplished hotel developer and operator will in fact serve a predominate public purpose by stimulating continued private investment in Downtown and increasing the opportunities for the public to visit, dine, be entertained, and shop Downtown;
- U. In early 2018, long before Hurricane Michael, St. Joe approached the City to suggest St. Joe might be willing to build and operate, at its expense, a mid-rise hotel on the Marina Property, and that St. Joe was willing to conduct immediately, again at its expense, a feasibility study for a hotel;
- V. No other developer approached the City regarding the Marina Property since the City's termination of the second round of Marina Property redevelopment negotiations;
- W. St. Joe is based in Northwest Florida with substantial assets in the area and unquestionably is vested in Panama City and the surrounding areas;
- X. St. Joe has proven experience in the development and operation of world-class, full service hotel properties in Northwest Florida;

- Y. St. Joe has the assets needed to develop and start-up a quality hotel on the Marina Property with a long-term investment horizon;
- Z. In 2018 St. Joe, at its expense, began and continues to study the financial feasibility of developing a mid-sized, quality hotel on the Marina Property and publicly declared a desire to further explore that opportunity with the City;
- AA. Based upon the City's futile attempts to attract capital to the Marina Property, the City accepts the fact that as a stand-alone project the return on investment of building a mid-rise hotel on the Marina Property is too small for an ordinary or conventional investor;
- BB. In the Panama City and northwest Florida market, St. Joe is not an ordinary or conventional investor;
- CC. St. Joe's financial strength, holdings, and other investments throughout the community place it in the unique position of waiting for and achieving a long term, direct and indirect return on investing in a hotel on the Marina Property;
- DD. St. Joe is the ultimate beneficial owner of and exclusively controls, through its subsidiary, JoePC and has guaranteed the performance of this Lease by instrument attached as **Exhibit K**;
- EE. On February 25, 2019, the City and St. Joe entered a non-binding Memorandum of Understanding (the "MOU") publicly announcing their intention to pursue discussions about St. Joe leasing a portion of the Marina Property to develop and operate the right sized and programmed hotel and restaurant;
- FF. As initially expressed in the MOU, St. Joe is willing to construct and operate the Complex solely at its expense without financial incentives from the City and pay ground rent to the City based upon the performance of the Hotel and in line with industry standards as more particularly stated in this Lease;
- GG. As part of the MOU St. Joe at its expense has held a series of advertised town-hall meetings to receive public comment from concept through preliminary design;
- HH. On March 28, 2019 and July 17, 2019, St. Joe held a series of advertised public meetings to inform the public and receive comment about the design and location of the Hotel;
- II. On July 17, 2019, St. Joe presented to the City a conceptual design and location for the Hotel;

JJ. On August 11, 2020, the City Commission held a public meeting upon the design and location of the Complex;

KK. On August 25, 2020, in an advertised public meeting the City Commission unanimously approved the Lease; and

LL. After St. Joe first publicly announced a desire to develop and operate a hotel on the Marina Property, and through the adoption of Lease, the City did not receive another proposal to develop and operate a hotel on the Marina Property.

THE LEASE

NOW, THEREFORE, in consideration of the mutual covenants and benefits of this Lease, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City leases to JoePC and JoePC leases from the City the Leased Property upon the following terms, covenants, conditions, limitations, and agreements, which are:

ARTICLE I

RECITALS and EXHIBITS and DEFINITIONS

Section 1.1 Recitals and Exhibits. The forgoing recitals are correct and sufficiently complete to not be misleading. Attached hereto and forming a part of this Lease are the following Exhibits:

- Exhibit A Downtown Marina Property
- Exhibit B Hotel Standards
- Exhibit C Acceptable Tenant Definition
- Exhibit D Bay View Restricted Area
- Exhibit E Legal Description of Leased Property
- Exhibit F Site and Complex Plan
- Exhibit G Schedule of Performance
- Exhibit H Hotel Participation Rent Schedule
- Exhibit I Restaurant Participation Rent Schedule

- Exhibit J Restaurant Standards
Exhibit K The St. Joe Company Guarantee of this Lease
Exhibit L Example of Rent Calculations

If any exhibit conflicts with the body of the Lease, the body of the Lease shall govern except as expressly stated to the contrary in such exhibit.

Section 1.2 Defined Terms. As used in this Lease the term:

Acceptable Tenant has the meaning ascribed in **Exhibit C**.

Acceptable Tenant Criteria has the meaning ascribed in **Exhibit C**.

Additional Marina Parking has the meaning described in Section 2.2(k).

Additional Rent means any and all payments required of JoePC to the City by the terms of this Lease other than Rent, including by way of example and not limitation, interest, late fees, penalties and contributions.

Adjacent Slips means those horizontal spaces of water lying wholly within 75 feet of the Promenade as contemplated by the Site and Complex Plan and formed by one or more pilings, dolphins, docks, bulkheads, wharfs, floats, or other structures, and capable of being used to moor or berth a boat to allow persons to embark or disembark between the boat and the Promenade.

Affiliate means, regarding any Person any other Person directly or indirectly controlling, controlled by or under common control with such Person. For purposes of this definition, the terms "controlling," "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least fifty percent (50%) of the directors, managers, general partners, or persons exercising similar authority with respect to such Person.

Appraised Value has the meaning ascribed in Section 14.2(d).

Approved Plans has the meaning ascribed in Section 3.3 and refers initially to the plans submitted to the City Manager for approval and ultimately to the plans as approved by the City Manager.

Average Daily Rate or ADR means for any number of days the quotient of Room Revenue for that period divided by the sum of the number of Room-Nights sold or occupied for that same period as determined in accordance with the Uniform System and customary industry practice.

Bay View Restricted Area has the meaning ascribed in Section 2.2(f).

Business Day means each day that the City Hall of the City is open to the public for business.

Certificate of Final Completion has the meaning ascribed in Section 3.9.

Certificate of Occupancy means a certificate of occupancy or certificate of completion for the JoePC Improvements issued by or on behalf of the governmental police authority responsible for enforcing building and safety codes, as applicable, for the buildings and structures on the Leased Property and shall include any such certificate designated as “Temporary” in nature, provided it allows for occupancy of the Hotel and of the Restaurant.

Certified Cost of JoePC Improvements has the meaning ascribed in Section 3.9.

City means the City Panama City, Florida, including its agents, as lessor and landlord hereunder, whether acting in its proprietary capacity through the City Commission or its designee, and not in its sovereign capacity as a municipality exercising its police powers or administering laws and ordinances that are applicable to the Complex unless the latter capacity, which will never be implied, is expressly stated.

City Manager means General Mark McQueen or his successor as City Manager of the City.

Completion Date means that date on which the City, issues the Certificate of Final Completion pursuant to Section 3.9 in its proprietary capacity as owner of the Leased Property and not through the exercise of its governmental police power.

Complex means that assembly of building, structures, and improvements within the boundaries of the Leased Property, including the Hotel, the Parking Lot and the Restaurant (including the Event Lawn), all as contemplated by the Site and Complex Plan and as more particularly described in the Approved Plans.

Corrective Action Work has the meaning ascribed in Section 8.4(a)(vii).

Cost of Reconstruction Work has the meaning ascribed in Section 9.9.

CPA means a firm of certified public accountants authorized to practice in Florida selected from time to time by mutual agreement of the City and JoePC used by JoePC for any purpose specified in this Lease.

Deed in Lieu of Foreclosure shall mean an instrument effecting a Transfer of all, but not less than all, of a Person's interest in the leasehold created by this Lease in whole or partial satisfaction of a money obligation secured by a Leasehold Mortgage.

Default Rate means an interest rate equal to five percent (5%) per annum above the highest annual prime rate (or base rate) published from time to time in The Wall Street Journal under the heading "Money Rates" or any successor heading as being the rate in effect for corporate loans at large U.S. money center commercial banks (whether or not such rate has actually been charged by any such bank) or if such rate is no longer published, then the highest annual rate charged from time to time at a large U.S. money center commercial bank, selected by the City, on short-term, unsecured loans to its most creditworthy large corporate borrowers.

Default Tenant has the meaning ascribed in Section 5.2.

Downtown has the general meaning ascribed in the initial recitals first above written.

Estoppel Certificate means the certification by a party to an agreement that the counter-party or parties are not then in default or breach of any material covenant in the agreement, and that the party giving the certification is not aware of any fact or circumstance that with the passage of time or giving of notice would constitute a such a breach or default.

Environment has the meaning ascribed in Section 8.4.

Environmental Condition has the meaning ascribed in Section 8.4.

Environmental Claim has the meaning ascribed in Section 8.4.

Environmental Laws has the meaning ascribed in Section 8.4.

Environmental Permit has the meaning ascribed in Section 8.4.

Environmental Requirements has the meaning ascribed in Section 8.4.

Event Lawn means the open space and improvements contemplated by the Site and Complex Plan and as more particularly described in the Approved Plans, including all property, real,

personal, mixed real and personal, tangible, and intangible, which is used, useful, or convenient in operating or maintaining the Event Lawn.

Event of Default has the meaning ascribed in Article VII.

Exclusive Adjacent Slips has the meaning set forth in Section 2.2(h).

Financial Statement means a Financial Statement certified by the CPA to have been prepared in accordance with GAAP and GAAS.

First Use Area has the meaning ascribed in Article XV.

Flag means the publicized name, logo, and branding of a franchised and nationally marketed hotel chain that is designated as an Upper Midscale Hotel.

Force Majeure has the meaning ascribed in Section 7.4.

GAAP means generally accepted accounting principles, as promulgated by the Financial Accounting Standards Board, consistently applied or a system generally recognized in the United States as having replaced GAAP.

GAAS means generally accepted auditing standards, as developed by the American Institute of Certified Public Accountants, consistently applied, or a system generally recognized in the United States as having replaced GAAS.

Good Condition and Repair has the meaning ascribed in Section 12.1.

Governing Body of the City means the City Commission of the City.

Governmental Approvals means all approvals that are required by any Governmental Authority for the construction of the JoePC Improvements in accordance with the Site and Complex Plan, and the use, occupancy and operation thereof in accordance with all applicable Governmental Requirements. Notwithstanding anything to the contrary in the Lease, JoePC retains its rights to challenge or appeal any denial of Governmental Approvals.

Governmental Authority means any federal, state, county, municipal or other governmental department, entity, authority, commission, board, bureau, court, agency, or any instrumentality of any of them, with jurisdiction over the Leased Property or the JoePC Improvements, including the City in its sovereign capacity.

Governmental Requirements means any law, enactment, statute, code, ordinance, rule, regulation, judgment, decree, writ, injunction, franchise, permit, certificate, license, or other similar

requirement of any Governmental Authority, now existing or hereafter enacted, adopted, promulgated, entered, or issued, affecting the Leased Property or the construction and operation of the JoePC Improvements. Notwithstanding anything to the contrary in the Lease, JoePC retains its right to challenge Governmental Requirements, including without limitation, based on a constitutional objection that a Governmental Requirement violates JoePC's constitutional rights regarding contracts.

Gross Hotel Revenue or Hotel Revenue means for any number of days Gross Hotel Sales Revenue and Gross Room Revenue.

Gross Hotel Sales Revenue means for any number of days all revenues and consideration or value in any form, expressed in dollars, generated (accrued) by JoePC or a Subtenant during that period for food, beverage, goods, events, entertainment, excursions, and services, retail and wholesale, in, through or associated with the Hotel or Hotel operations at any location (excluding the Event Lawn), including operations conducted outside of the Leased Property, including by way of example and not limitation the Exclusive Adjacent Slips and excluding only Room Revenue.

Gross Restaurant Revenue or Restaurant Revenue means for any number of days all revenues and consideration or value in any form, expressed in dollars, generated (accrued) by JoePC or a Subtenant during that period for food, beverage, goods, events, entertainment, excursions, and services, retail and wholesale, in, through or associated with the Restaurant or the Event Lawn, or both, or operations at any location, including operations conducted outside of the Leased Property.

Gross Room Revenue or Room Revenue means for any number of days the sum of all revenues generated (accrued) by Room-Nights sold or occupied in the Hotel during that period as determined in accordance with the Uniform System and customary industry practice.

Hazardous Substance or Material has the meaning ascribed in Section 8.4.

Hotel means the hotel and Parking Lot contemplated by the Site and Complex Plan and as more particularly described in the Approved Plans and all property, real, personal, mixed real and personal, tangible, and intangible, which is used, useful, or convenient in operating or maintaining the hotel.

Hotel Property means that portion of the Leased Property upon which the footprint of the Hotel building is located and such other portions of the Leased Property which from time to time JoePC may dedicate to the Hotel.

Hotel Standards means the standards set forth in **Exhibit B**.

Independent License Agreement has the meaning ascribed in Section 12.3(b)(iv).

Industry Standards has the meaning, collectively, ascribed in Section 12.2.

Institutional Investor means any of the following entities:

- (a) The City shall approve, within twenty (20) days from receipt by the City of commercially reasonable information properly identifying and confirming the qualifications of the proposed Institutional Investor including without limitation, its financial qualifications, any of the following entities as an “Institutional Investor:”
 - (i) any federal or state chartered commercial bank or national bank or any of its subsidiaries regulated by state or federal laws;
 - (ii) any federal or state-chartered savings and loan association, savings bank or trust company regulated by state or federal laws;
 - (iii) any pension, retirement or welfare trust or fund, whose loans on real estate are regulated by state or federal laws;
 - (iv) any public limited partnerships, public real estate investment trust or other public entity investing in commercial mortgage loans whose loans on real estate are regulated by state or federal laws;
 - (v) any state licensed life insurance company in the business of making commercial mortgage loans or a subsidiary or affiliate of any such institution whose loans on real estate are regulated by state or federal laws; and
 - (vi) any private equity fund or similar private entity investing in commercial mortgage loans whose loans on real estate are regulated by state or federal laws;
- (b) In the event of a syndicated or participating loan, if one of the syndicate lenders is qualified as an Institutional Investor, all of the syndicate lenders shall be deemed to be Institutional Investors, but the City shall at all times and with respect to all things be entitled to rely upon the actions and statements of the lead lender who shall be qualified as an Institutional Investor.

Insurance Trustee has the meaning ascribed in Section 9.9(a).

JoePC Improvements means all permanent vertical and horizontal infrastructure and support, together with all buildings, other vertical structures and infrastructure, structures, machinery, equipment, furniture, and fixtures, which are located on the Leased Property

and contemplated by the Site and Complex Plan (excluding the Adjacent Slips and Promenade), and as may from time to time and at any time during the Term be erected or located, or placed or re-placed, on the Leased Property, including without limitation, the Complex, and also includes all forms of property referenced in the definitions of Complex and all its sub-parts.

Lease means this Ground Lease, as the same may be modified or amended from time to time.

Leased Property means the parcel of real property described in **Exhibit E** as may be modified prior to commencement of construction as provided in Section 2.1(d).

Leasehold Mortgage has the meaning set forth in Section 6.1.

Lender means an Institutional Investor that is the owner and holder of a Leasehold Mortgage.

But, the City shall have no duty or obligation to determine independently the relative priorities of any Leasehold Mortgages. Rather, it shall be entitled to rely absolutely upon a title report current as of the time of any determination of the priorities of such Leasehold Mortgage and prepared by a generally recognized title insurance company doing business in Bay County, Florida, or upon a certificate of JoePC, signed and verified by an authorized person of JoePC.

Marina or Downtown Marina Property or Marina Property shall have the meaning ascribed in the first recital first above written and excludes the adjacent waters and submerged lands of St. Andrew Bay.

New Activity has the meaning ascribed in Section 15.1.

Non-Curable Default has the meaning ascribed in Section 6.3.

Occupancy Rate means for any number of days the quotient of the sum of Room-Nights occupied or sold during that period divided the number of Room-Nights Available for that same period, in accordance with the Uniform System and customary industry practice.

Offer has the meaning ascribed in Section 5.5.

Opening Date means the date on which the Hotel or the Restaurant first opens for business to the general public.

Parking Lot means the surface vehicle parking lot constructed and operated as part of the Complex to serve patrons of the Hotel or Restaurant or Event Lawn, or any combination, contemplated by the Site and Complex Plan and as more particularly described in the

Approved Plans containing approximately one hundred ninety-two (192) parking spaces, including all property, real, personal, mixed real and personal, tangible, and intangible, which is used, useful or convenient in operating or maintaining the Parking Lot.

Participation Rent has the meaning ascribed in Section 2.4(b).

Permitted Transfer and Permitted Transferee have the meanings ascribed in Sections 5.2 and 5.3.

Person means any corporation, unincorporated association or business, limited liability company, business trust, real estate investment trust, common law trust, or other trust, general partnership, limited partnership, limited liability limited partnership, limited liability partnership, joint venture, or two or more persons having a joint or common economic interest, nominee, or other entity, or any individual (or estate of such individual).

Promenade means the pedestrian way shown on the Site and Complex Plan lying between the waters of St. Andrew Bay and the Leased Property on its southwesterly and southeasterly sides, including light fixtures.

Proposed New Tenant has the meaning ascribed in Section 5.5.

Possession Date has the meaning ascribed in Section 2.1(c).

Possession Conditions has the meaning ascribed in Section 2.1(b).

Public Charges has the meaning ascribed in Section 2.5(a)(iii).

Qualifying Hotel has the meaning ascribed in Exhibit B (Paragraph 2(c)).

Reconstruction Work has the meaning ascribed in Section 9.9(b).

Rent means all payments required pursuant to Section 2.4 (other than in Section 2.4(a) thereof) and any other payments characterized as rent hereunder.

Rental Year means a year consisting of twelve (12) consecutive calendar months. The first Rental Year during the term of this Lease shall commence on the Possession Date and end on September 30th of the then current calendar year. The second and following Rental Years shall commence on the 1st day of October each calendar year and end September 30th the next year.

Restaurant means the free-standing building and restaurant and the separate Event Lawn contemplated by the Site and Complex Plan and as more particularly described in the Approved Plans, including all property, real, personal, mixed real and personal, tangible,

and intangible, used, useful, or convenient in operating or maintaining the Restaurant or the Event Lawn, or both.

Restaurant Property means that portion of the Leased Property upon which the Restaurant building footprint is located, the Event Lawn, and such other portions of the Leased Property which from time to time JoePC may dedicate to the Restaurant or Event Lawn.

Restaurant Standards means the standards set forth on **Exhibit J**.

Right of First Use has the meaning ascribed in Article XV (JoePC's right).

Right of First Refusal has the meaning ascribed in Section 5.5 (City's right).

Room means a uniquely keyed room in the Hotel with traditional, sleeping accommodations for no more than four (4) adults (excluding couches, convertibles, etc.). Adjoining rooms with an interior lock-out door shall be considered two Rooms. A suite of rooms with a single key shall be considered the number of rooms equal to the integer determined by dividing the number of sleeping accommodations included (excluding couches, convertibles, etc.) by the number four (4).

Room-Nights Available or Available Room-Nights means for any number days the number of Room-Nights available for sale or occupancy in that period as determined in accordance with the Uniform System and customary industry practice.

Room-Night means one calendar day for one Room.

Schedule of Performance has the meaning ascribed in Section 3.5.

Section, Subsection, Paragraph, Subparagraph, Clause, or Subclause followed by a number or letter means the section, subsection, paragraph, subparagraph, clause or subclause of this Lease so designated.

Single Purpose Entity means:

- (a) an entity or organization that does not and cannot by virtue of its organizational documents:
 - (i) engage in any business other than owning, developing, leasing and operating the Complex, and
 - (ii) acquire or own material assets other than this Lease and the Complex and incidental personal property; and that

(b) does not hold itself out to the public as anything but a legal entity or organization separate from any other person or entity or organization; and

(c) conducts business solely in its name or under a fictitious name.

Site and Complex Plan means the plan setting forth the approximate location, size, general appearance, conceptual design and schematic design of the proposed Complex as set forth in attached **Exhibit F**, as it may be amended from time to time prior to commencement of construction as provided in Section 3.1(a).

State means the State of Florida.

St. Joe or The St. Joe Company means The St. Joe Company, a Florida corporation for profit, and the ultimate, sole and controlling parent company of the wholly-owned subsidiary, JoePC.

St. Joe Guarantee means the guarantee of this Lease referred to in the recitals and attached as **Exhibit K**.

Sublease means any lease, sublease, license, assignment of lease rights, concessionaire agreement, independent contractor agreement, or other agreement by which JoePC demises, leases, or licenses or makes available the use or occupancy by another person or entity of one or more retail or restaurant or other spaces, or any portion of the Complex or the Leased Property, whether defined or at large, for any use or purpose.

Subtenant means any person, firm, corporation or other legal entity using or occupying, or intending to use or occupy, space under a Sublease.

Term or Term of this Lease means the period of time set forth in Section 2.1(a).

Total Hotel has the meaning ascribed in Section 5.3(c).

Total Restaurant has the meaning ascribed in Section 5.3(b).

Trademark License Agreement means a license agreement or set of agreements providing the right of JoePC to operate the Hotel under a Flag, or such successor document or documents created to allow operation under a new (replacement) Flag.

Transfer means a sale, assignment or conveyance, or any other transaction or circumstance or series of transactions or circumstances, regardless of the nature of consideration, or if by operation of law, of:

(a) this Lease or the Complex or any part of either;

(b) any interest in this Lease or the Complex, or any part of either; or

(c) any series of (a) or (b) or both that have the cumulative effect of either.

Uniform System means the Uniform System of Accounts for the Lodging Industry, 10th Revised Edition, as may be modified from time to time by the International Association of Hospitality Accountants, consistently applied. In the event of a conflict between this Lease and the Uniform System, this Lease shall control.

Upper Midscale Hotel means, as of the Opening Date, a hotel that would qualify as “Upper Midscale” on the “Chain Scale” of hotels published by Smith Travel Research (STR). JoePC and the City acknowledge that hotel standards of facilities, amenities, services, etc., evolve with cultural and technological changes, but they also believe that there will always be a spectrum or scale of hotel groupings from value and economy to upscale and luxury. Accordingly, over time and from time to time, as used in this Lease the term Upper Midscale Hotel shall mean a hotel whose facilities, amenities, services, etc., will place it on the then current spectrum of hotel groupings at a place analogous (by reference to then current hotel groupings below and above) to where an “Upper Midscale” hotel falls today on STR’s Chain Scale.

Work has the meaning ascribed in Section 3.5.

ARTICLE II

GENERAL TERMS OF LEASE

Section 2.1 Lease of Leased Property to JoePC. Subject to the conditions set forth in this Lease, including without limitation, the occurrence of the Possession Date and the City’s and JoePC’s performance of their duties and obligations required by this Lease:

- (a) Demise. Prior to the Possession Date, JoePC shall be licensed to enter the Leased Property to exercise the rights and fulfill the obligations undertaken in Article III to prepare for construction of the JoePC Improvements. As of the Possession Date, the City demises and leases to JoePC, and JoePC takes and hires from the City, the Leased Property for a term of sixty (60) years commencing on the Possession Date (the “Term”). Within thirty (30) days after the Possession Date, the City and JoePC, upon request of either party, shall execute one or more written memoranda

in such form as will enable them to be recorded among the Public Records of Bay County setting forth the beginning and termination dates of the Term, determined according to this Lease.

(b) Conditions Precedent to Possession. Notwithstanding anything to the contrary in this Lease, the City shall not be obligated to deliver possession of the Leased Property and JoePC's rights as tenant hereunder shall not become effective until each of the events described in this Subsection 2.1(b) shall have occurred, at which time, the City shall deliver possession of the Leased Property to JoePC (evidenced by delivery of a Certificate of Possession), JoePC shall take possession thereof and the lease provisions of this Lease shall become effective. Until that time, this Lease shall be construed to be in the nature of a development agreement, and not a lease. The conditions precedent to delivery of possession (collectively, the "Possession Conditions") are as follows:

- (i) There exists no uncured JoePC Event of Default or circumstance which with the passage of time or giving of notice would constitute a JoePC Event of Default;
- (ii) The City, through the review and approval of the City Manager, in its capacity as landlord under this Lease shall have found that the Approved Plans conform in all material respects with the Site and Complex Plan which shall demonstrate vehicular access between the Leased Property and both Harrison Avenue and Government Street.
- (iii) The City shall have approved the Trademark License Agreement and Flag in its capacity as landlord under this Lease;
- (iv) JoePC shall have obtained all Governmental Approvals;
- (v) JoePC shall have entered into a general contract for construction and purchase of the JoePC Improvements in form and substance and with a general contractor reasonably acceptable to the City;
- (vi) JoePC shall have obtained and delivered to the City a performance and payment bond, with all premiums paid and with good and sufficient surety, in form and content reasonably acceptable to the City, in

accordance with Florida law. Such bond and insurance shall be written in favor of JoePC with a dual obligee rider in favor of the City;

- (vii) The City shall have received written evidence from JoePC that is commercially reasonable, confirming that good and sufficient funds are readily available for the complete construction and purchase of the JoePC Improvements in an aggregate amount of not less than their cost, including a contingency of not less than ten percent;
 - (viii) JoePC shall have presented evidence that all required insurance coverages are in place; and
 - (ix) JoePC and the City shall have agreed upon ingress and egress locations to and from Harrison Avenue and the Leased Property and to and from Government Street and the Leased Property.
- (c) The date that the City delivers possession of the Leased Property to JoePC according to subparagraph (b) and is so designated by the City to JoePC in writing, is referred to herein as the “Possession Date.” If JoePC determines for any reason prior to the Possession Date that the Complex is not suitable for its intended purposes, JoePC shall provide written notice to the City that it is exercising its rights under this Section 2.1(c) to terminate the development agreement and any right or obligation to enter into this Lease (the “Termination Notice”). If JoePC provides the Termination Notice prior to the Possession Date, neither party shall have any obligation to the other under the development agreement or this Lease.
- (d) If JoePC determines, based on its inspection, investigation, testing, and assessments of the Leased Property prior to commencement of construction, that a minor and economically immaterial adjustment to the location of, or an expansion of the perimeter of, the Leased Property is commercially reasonable and necessary or desirable to ensure the Complex is able to meet Governmental Requirements and the standards and requirements of this Lease, the City agrees to amend this Lease to modify the legal description of the Leased Property accordingly.
- (e) If at any time during the Term, the City ceases to own the street currently known as Government Street, upon request by JoePC, the City agrees to execute an

amendment to this Lease to increase the area of the Leased Property to include up to the center line of Government Street on the side of the street abutting the Leased Property.

Section 2.2 Restrictive and Affirmative Covenants; Construction and Use of Related Facilities.

- (a) Permitted and Obligated Use. Subject to the need to make repairs and perform maintenance as below described and any extension of time due to Force Majeure event, JoePC shall diligently and continuously operate the Complex throughout the Term as a destination for the accommodation and enjoyment of visitors and residents alike, and for related banquet, events, entertainment, meeting and similar purposes, with related retail shops, restaurants, lounges, and such other amenities as are consistent with the terms and conditions of this Lease. At all times, the Hotel shall meet the Hotel Standards as set forth in **Exhibit B** and the Restaurant shall meet the Restaurant Standards as set forth in **Exhibit J**. This covenant shall not preclude JoePC from (i) closing a portion of the Complex other than the Hotel on a seasonal basis, consistent with visitor and resident demand and prudent industry practices; (ii) closing the Restaurant on a weekly basis provided that such weekly closure is not more than two (2) days per week; (iii) restricting the Event Lawn for guest or patron use only or for special events or functions; or (iv) closing minor portions of the Hotel or the Restaurant or minor portions of other parts of the Complex for routine repairs and maintenance consistent with the prudent operation of similar facilities, but JoePC shall not be entitled to close and renovate all or a substantial portion of the Hotel, the Event Lawn, the Restaurant, or the Parking Lot without the City's written consent exercised in its proprietary and not governmental capacity and which may be commercially reasonably conditioned but shall not be commercially unreasonably withheld or delayed.
- (b) Acceptable Tenant. JoePC represents and warrants that by virtue of its affiliation with St. Joe, and St. Joe's guarantee of this Lease, it meets every qualification and criteria of an Acceptable Tenant and covenants that it shall continue to do so at all times during the Term of this Lease.

- (c) Use Restrictions. The Complex shall not be used by JoePC, nor shall JoePC permit the use thereof for the following: any unlawful or illegal business, use or purpose, or for any business, use or purpose which is immoral or disreputable (including without limitation, “adult entertainment establishments” or “adult” bookstores or other sexually oriented business) or extra-hazardous, or in such manner as to constitute a nuisance of any kind (public or private), or for any purpose or in any way in violation of the Certificates of Occupancy (or other similar approvals of any Governmental Authority) or any Governmental Requirements. Subject to Article XV, JoePC shall have no right to convert the use of the Complex or any portion thereof to any time sharing, time interval or cooperative form of ownership, or to subject the same to any condominium regime.
- (d) No Discrimination. JoePC shall comply with Governmental Requirements prohibiting discrimination by reason of race, color, religion, sex, national origin, or handicap in the sale, lease, use or occupancy of the Complex or any portion thereof.
- (e) Enforceability. The covenants contained in this Section 2.2 shall be binding upon JoePC and the City, as the case may be, and shall be for the benefit and in favor of, and enforceable by the City and Joe PC and their successors and assigns, as the case may be. It is further understood that such covenants shall not be enforceable by any other third party.
- (f) Height and View Restriction: During the Term of this Lease, the City shall not construct or permit the construction of any building, structure or other improvement higher than thirty-five feet (35’) above-grade within the area shown on **Exhibit D** (the “Bay View Restricted Area”), without the prior written consent of JoePC.
- (g) Construction, Restrictions, Standards, and Covenants Respecting the Promenade.
 - (i) The City agrees to construct the Promenade prior to the Completion Date in accordance with the Approved Plans. Additionally, JoePC agrees to include plans and specifications and construction of the Promenade as a separate and discrete allowance under its contract for construction of the

JoePC Improvements. At the City's timely, written request, in lieu of the City constructing the Promenade JoePC shall cause its contractor to construct the Promenade in accordance with the Approved Plans contemporaneously with the JoePC Improvements and in that event the City hereby grants JoePC all necessary or convenient access to and on the Promenade areas and adjacent waters for construction. At the completion of construction by JoePC, JoePC will sell and transfer the Promenade free of liens to the City for the cost of construction specified in the original allowance approved by the City with such change orders as the City shall approve in writing which shall not be unreasonably delayed or denied. The City agrees that JoePC's obligations with respect to construction of the Promenade shall be limited in all respects to JoePC's obligations with respect to construction of the JoePC Improvements set forth in this Lease and JoePC shall not assume any additional liability to the City or any third party as a result of its agreement to construct the Promenade.

- (ii) The City shall allow free, recreational pedestrian and bicycle use of the Promenade at all times that the public are allowed access and use of any public pedestrian ways on the Marina Property. At all times the City shall restrict the use of the Promenade to recreational pedestrian and bicycle use and prohibit any other modes of transportation such as motorcycles, skateboards, skates, micro-mobility devices, etc. The City shall not permit or suffer any use of the Promenade which unreasonably interferes with the use and enjoyment of the Complex by JoePC's guests or creates a public or private nuisance. The City shall not allow the Promenade to be used for any commercial purpose, including the transfer of goods or freight from or to any vessel, regardless of whether wharfage is charged. Nonetheless, the City and JoePC may agree, in writing, to any lawful use of the Promenade by any person, including JoePC, for a time certain.
- (iii) The City shall keep the Promenade in a structurally sound and safe condition through routine and continuing structural repair and replacement

and in an appearance and quality consistent with the public ways on the remainder of the Marina Property.

- (iv) The City shall be responsible for the installation and maintenance of the lighting for the Promenade, including the cost of energy to light the Promenade at night.
 - (v) JoePC shall be responsible for the daily and routine cleaning, trash removal, and minor maintenance of the Promenade and shall defend, indemnify, and hold harmless the City of any claim or demand resulting in whole or in part from any act or omission of JoePC associated with those activities; provided, that JoePC shall not be responsible for any obligations related to any furniture placed on the Promenade by the City. JoePC shall cause the City to be named as an additional insured with respect to the Promenade under all its liability insurance policies covering the Complex and waiving any right of subrogation against the City.
- (h) Construction, Restrictions and Covenants Respecting Adjacent Slips.
- (i) The City acknowledges and represents that redevelopment of the Marina, including constructing a wet slip marina, is a high priority for the City. To that end, the City agrees to use all commercially and governmentally reasonable efforts to redevelop the Marina, including construction of a wet slip marina with slips other than the Adjacent Slips, prior to the Completion Date or within a reasonable period of time thereafter.
 - (ii) The City agrees to construct the Adjacent Slips prior to the Completion Date in accordance with the Approved Plans. Additionally, JoePC agrees to include plans and specifications and construction of the Adjacent Slips as a separate and discrete allowance under its contract for construction of the JoePC Improvements. At the City's timely, written request, in lieu of the City constructing the Adjacent Slips JoePC shall cause its contractor to construct the Adjacent Slips in accordance with the Approved Plans contemporaneously with the JoePC Improvements and in that event the City hereby grants JoePC all necessary or convenient access to and on the

Promenade area and adjacent waters for construction. At the completion of construction by JoePC, JoePC will sell and transfer the Promenade free of liens to the City for the cost of construction specified in the original allowance approved by the City with such change orders as the City shall approve in writing which shall not be unreasonably delayed or denied. The City agrees that JoePC's obligations with respect to construction of the Adjacent Slips shall be limited in all respects to JoePC's obligations with respect to construction of the JoePC Improvements set forth in this Lease and JoePC shall not assume any additional liability to the City or any third party as a result of its agreement to construct the Adjacent Slips.

- (iii) The Adjacent Slips shall be open and available to the general public for use, with the exception of four (4) of the Adjacent Slips that the City will lease to JoePC as provided below. The City shall prohibit overnight docking in the Adjacent Slips, except the four (4) leased slips just mentioned.
- (iv) The City shall keep the Adjacent Slips in a structurally sound and safe condition through routine and continuing structural repair and replacement and in an appearance and quality consistent with the other wet slips in the wet marina. The City shall be responsible for daily and routine cleaning, trash removal, and minor maintenance of the Adjacent Slips, including periodic removal of jetsam and flotsam from the waters of the Adjacent Slips, consistent with the other wet slips in the wet marina; provided, that JoePC shall be responsible for daily and routine cleaning, trash removal, and minor maintenance of the Exclusive Adjacent Slips.
- (v) The City shall be responsible for the installation and maintenance of the lighting for the Adjacent Slips, including the cost of energy to light the Adjacent Slips at night.
- (vi) In consideration of the benefits to accrue to the Complex and in turn to the City, the City shall lease to JoePC four (4) of the Adjacent Slips for its exclusive use (the "Exclusive Adjacent Slips"). JoePC shall have the right

to select from time to time but no less than annually which such four Adjacent Slips shall be the Exclusive Adjacent Slips. The Exclusive Adjacent Slips need not be contiguous. The City shall supply metered, potable water and electricity to the Exclusive Adjacent Slips and JoePC shall pay for consumption at ordinary rates.

(vii) JoePC's lease of the Exclusive Adjacent Slips shall terminate upon (A) the State's imposition of any fee, tax, or charge upon the Exclusive Adjacent Slips or the submerged land associated with the Exclusive Adjacent Slips unless JoePC shall timely and fully pay to the State all such sums due, or (B) upon termination of this Lease by lapse of time or otherwise.

(i) Maintenance, Standards, and Covenants Respecting Certain Bulkheads.

(i) The Parties acknowledge that almost all of the Marina Property, and all of the Leased Property which is part of the Marina Property, is man-made land created half a century ago by filling a portion of St. Andrew Bay between the natural shoreline on one side and a series of linear seawalls or bulkheads (the "Bulkheads") forming the remaining sides of a polygon, and that certain portions of that Bulkhead adjacent and proximate to the Leased Property are necessary to prevent the waters of St. Andrew Bay from eroding the seaward edges of the Leased Property and possibly causing subsidence of the Leased Property.

(ii) If JoePC's inspection, investigation, testing, and environmental assessments of the Leased Property as described in Section 2.3 of this Section demonstrates that the Leased Property will not physically support the Complex in its current condition due to the condition of the Bulkheads adjacent or proximate to the Leased Property, or the soil and subsurface conditions of the Leased Property, the parties agree to terminate this Lease in which event neither party shall have any obligation to the other under this Lease, except to the extent related to an obligation to the other arising and unperformed prior to the date of termination.

- (iii) Through routine and continuing structural maintenance, repair, and replacement consistent with the maintenance, repair and replacement of all Bulkheads of the Marina and subject to available appropriations, the City shall keep the Bulkheads adjacent and proximate to the Leased Property and needed to support the Hotel and Restaurant in a structurally sound condition sufficient to prevent the waters of St. Andrew Bay from eroding the seaward edges of the Leased Property and to prevent or minimize the subsidence or the risk of subsidence of the Leased Property (the “Complex Bulkheads”) to such a degree as to materially impair business operations at the Complex or to render the Complex unsafe or unusable for its designed purposes.
 - (iv) Subject to available appropriations, the City shall promptly and with all commercially diligent effort restore any damage to or destruction of the Complex Bulkheads except to the extent such damage is caused by the negligence or willful misconduct of JoePC.
- (j) Government Enforcement Downtown. The City recognizes that JoePC’s successful operation of the Complex depends, in part, on the social and economic redevelopment and revitalization of Downtown, and the enforcement of codes, laws, rules and regulations among property owners, residents and the general public in the Downtown area. Therefore, the City acknowledges and agrees that it will use all lawful and reasonable efforts to maintain and enforce codes, laws, rules and regulations to support and promote the social and economic redevelopment and revitalization of Downtown, including the aesthetics of property located within Downtown and the safety of residents and visitors, subject, in all cases, to City’s right and obligation to establish and change budgetary priorities for the general health, safety and welfare of its citizens.
- (k) Construction and Use of Additional Marina Parking.
 - (i) In recognition that the Marina Property may be visited by members of the general public who may not be visiting the Leased Property, or who may be accessing the Promenade through the Leased Property, and to avoid

having to restrict the Parking Lot to ensure adequate parking for guests and invitees to the Leased Property, the City agrees to construct additional parking spaces within the Marina Property proximate to the Parking Lot (the “Additional Marina Parking”), which spaces shall be open to the public and to JoePC’s guests without charge at all times, subject to such reasonable rules as the City may promulgate to ensure the safety and convenience of persons visiting the Marina Property. The City and JoePC shall mutually agree on the development and construction of the Additional Marina Parking, including the size, location and configuration of such Additional Marking Parking, timing for construction and the plans and specifications related thereto.

(ii) At the City’s timely, written request, in lieu of the City constructing the Additional Marina Parking JoePC shall cause its contractor to construct the Additional Marina Parking in accordance with mutually approved plans and specifications and in that event the City hereby grants JoePC all necessary or convenient access to and on the area comprising the Additional Marina Parking for construction. At the completion of construction by JoePC, JoePC will sell and transfer the Additional Marina Parking free of liens to the City for the cost of construction specified in the construction contract approved by the City with such change orders as the City shall approve in writing which shall not be unreasonably delayed or denied. The City agrees that JoePC’s obligations with respect to construction of the Additional Marina Parking shall be limited in all respects to JoePC’s obligations with respect to construction of the JoePC Improvements set forth in this Lease and JoePC shall not assume any additional liability to the City or any third party as a result of its agreement to construct the Additional Marina Parking.

(l) Use of Complex Parking. Until the completion of the Additional Marina Parking in accordance with Section 2.2(k), St. Joe may reserve the Parking Lot for the exclusive use of the Complex. At all times following the construction of the

Additional Marina Parking and subject to the City's continued maintenance and repair of the Additional Marina Parking, JoePC shall make the Parking Lot open to the public without charge, subject to such reasonable rules as JoePC may promulgate to ensure the safety and convenience of persons visiting the Complex and as are approved by the City in writing, which approval shall not be unreasonably denied or delayed, and subject to JoePC's right to temporarily close or restrict access to the Parking Lot for not more than 12 hours in any 24 hour period during which a special event or function is being held at the Complex or for any maintenance, improvement or repairs. The consent of the City shall not be required for such temporary closures or restricted access.

- (m) Food & Beverage in Public Parks or Green Areas on Marina Property In recognition that the JoePC will be offering from the Complex food and beverage catering services on and off the Leased Property and in consideration of the many economic and social benefits to be enjoyed by the public Downtown resulting from a successful Complex, the City agrees that it will not permit or itself engage in any commercial sale or delivery of food or beverage for value in any public park, green space, or vehicle use area on the Marina Property without JoePC's written consent, except that this covenant will not preclude food or beverage vending, such as food trucks, on the Marina Property during any day that the Restaurant does not offer some food and beverage to the public. This negative covenant is in addition to JoePC's Right of First Use set forth in Article XV. This negative covenant shall not prevent the City or its designee from the commercial sale and delivery of food or beverage, or both, during no more than three (3) special events, each of no more than four (4) days duration, occurring in any twelve (12) month period.

Section 2.3 "As Is," "Where Is," and Present Condition of the Leased Property; Water and Sewer Capacity.

- (a) Subject to Section 2.2(i) and as provided in Section 8.5(a), JoePC acknowledges and agrees that it has been given the opportunity to perform all inspections and

investigations concerning the Leased Property to its satisfaction and JoePC accepts the Leased Property and the surface and subsurface of the Leased Property “As Is,” “Where Is,” and “In Its Present Condition, including Environmental Conditions” of the surface and subsurface of the Leased Property and subsurface, sub-adjacent, and adjacent support for the JoePC Improvements.

- (b) Except as expressly provided in this Lease, the City is not making and has not made any representations, covenants, or warranties, express or implied, as to the Leased Property (including without limitation, but not limited to, survey, physical condition of the surfaces, subsurface, infrastructure, bulkheads, subsurface and sub-adjacent support, suitability or fitness for any particular purpose, value, financial prospects or condition or the presence or absence of Hazardous Substances, or any other Environmental Condition of the surface and subsurface of the Leased Property or any adjacent property or waters).
- (c) Notwithstanding anything to the contrary in this Lease, the City represents and warrants in its capacity as lessor and not as a governmental entity or in the exercise of its police powers, that there is sufficient water and sewer capacity available for the Complex for its intended uses as shown on the Site and Complex Plan, and there shall be such capacity at all times during the Lease.

Section 2.4 Rent and Other Payments. JoePC covenants and agrees to pay the City, from and after the date hereof and during the Term the following, as applicable:

- (a) No Pre-Completion Rent. Prior to the Completion Date, no Rent shall be due, the parties acknowledging that the design, permitting, and construction efforts of JoePC, coupled with its reliance upon these presents, are sufficient consideration for the City’s performance of its obligations under this Lease.
- (b) Participation Rent. Following the Completion Date, JoePC covenants and agrees to pay the City monthly as Rent an amount to be computed and paid as follows (“Participation Rent”). Participation Rent shall be computed in two parts simultaneously paid, one part based upon Gross Hotel Revenue and one part based upon Gross Restaurant Revenue. Participation Rent shall be paid and settled in two stages: Participation Rent

shall be preliminarily computed and paid monthly and finally computed and settled annually.

- (i) Commencing with the first calendar month next after the month in which the Opening Date occurs, and for each consecutive month thereafter (each a “Generation Month”), JoePC shall record Gross Hotel Revenue, the Occupancy Rate, the Average Daily Rate, and Gross Restaurant Revenue obtained during that Generation Month.
- (ii) On or before the fifth (5th) Business Day of the calendar month next following each Generation Month (each a “Reporting Month”) JoePC shall deliver to the City its internal computation of preliminary Participation Rent due for the preceding Generation Month in accordance with the formulae incorporated in this Sub-Section. JoePC shall cause its record keepers to promptly cooperate with the City to answer and resolve any questions the City may have regarding the computation of preliminary Participation Rent, but JoePC shall not be obligated to make public the amount, calculation or supporting documentation for the amount or calculation of Gross Hotel Revenue, the Occupancy Rate, the Average Daily Rate or Gross Restaurant Revenue.
- (iii) On or before the fifth (5th) Business Day of the calendar month next following each Reporting Month (each a “Payment Month”), JoePC shall pay the City in immediately available funds preliminary Participation Rent in the amount reported in the Reporting Month or such other amount as may be adjusted by agreement of the parties.
- (iv) Hotel Participation Rent. If the Average Daily Rate for any Generation Month occurring more than twelve full and consecutive months after the Opening Date exceeds an amount specified on **Exhibit H** and the Occupancy Rate for that same Generation Month also exceeds a rate specified on **Exhibit H**, JoePC shall pay the City as Participation Rent for the Hotel the amount determined by multiplying Gross Room Revenue for that same Generation Month by the appropriate percentage shown upon

Exhibit H in relation to the Average Daily Rate and the Occupancy Rate reported for that Generation Month.

- (v) Restaurant Participation Rent. JoePC shall pay the City as Participation Rent for the Restaurant the amount determined by multiplying Gross Restaurant Revenue for that same Generation Month by the appropriate percentage shown upon **Exhibit I** in relation to the total Gross Restaurant Revenue for the applicable Rental Year.
 - (vi) In sum, Participation Rent shall be initially determined and paid monthly in arrears in a rolling, three consecutive months cycle consisting of the Generation Month, the Reporting Month, and the Payment Month in that order.
 - (vii) Annual Averaging and True-Up. No later than November 15 of each year during the Term, Participation Rent for the immediately preceding Rental Year (October – September) shall be recomputed using the same formulae respecting Hotel Revenues and Restaurant Revenues, respectively, but based upon the aggregate data obtained during Rental Year (“Final Participation Rent”). All receipts shall be deemed generated when accrued regardless of when paid or collected. Any underpayment shall be paid by JoePC or any overpayment refunded by the City within sixty (60) days after the related re-computation deadline first above stated. The purpose of this true-up is to broaden the base of the data upon which Participation Rent is based to minimize short term volatility.
 - (viii) The obligation to report and pay Initial and Final Participation Rent shall survive the termination of this Lease by lapse of time or otherwise.
- (c) Payment of Rent and Other Payments. All Rent, Additional Rent, and any other payments hereunder required to be made to the City by JoePC shall be paid to the City at the Office of the City Clerk, Harrison Avenue at Fifth Street, Panama City, Florida, or at such other place as the City may designate from time to time in a notice given pursuant to the provisions of Section 13.5, without right of abatement or set off which JoePC expressly

waives. Any late payment shall automatically accrue interest at the Default Rate from the date that payment was due until paid.

(d) Records and Reporting.

- (i) For the purpose of permitting verification for or by the City of any amounts due to it, including without limitation the amount of Participation Rent, JoePC shall keep and preserve for at least five (5) years in Bay or Walton County, Florida, at the address specified in Section 13.5 or at such other place as JoePC may designated from time to time in a notice given pursuant to the provision of Section 13.5, auditable original or duplicate books and records for the Complex which shall disclose separately all information regarding the Hotel and the Restaurant, including information required to determine Participation Rent for each. All such records shall be maintained in every material respect according to GAAP and the Uniform System.
- (ii) Annually within three months after the end of the Rental Year, JoePC at its expense shall provide the City with a writing from the CPA certifying that it performed such procedures as are needed to certify, and does certify, that Rent for the Rental Year has been fully and timely paid or, if not, then certifying the amount of any payments or refunds due. If JoePC shall cause or permit the CPA to timely and fully complete the foregoing examining and certifying functions, in the interests of time and the saving of expense, the City shall accept each such CPA certification on its face unless the City shall demonstrate that it has good cause to question it.
- (iii) If the City has good cause to question the CPA certification, it shall have the right to require JoePC to engage the CPA to audit or conduct an agreed upon procedures examination (acceptable to the City) of such books and records within a commercially reasonable time and report or certify (at the City's election) that Rent, and any other monies due the City under this Lease as specified in the engagement, have been fully and timely paid or, if not, the amount or any payments or refunds due. The City shall pay to JoePC, within thirty (30) days after the audit or examination is complete,

the out-of-pocket cost of that audit or examination if it demonstrates a discrepancy of three percent (3%) or less, in the amount of Participation Rent due to the City. If JoePC shall fail to timely engage the CPA, or fail to permit the CPA to access all needed or convenient financial books and records, or fail to deliver the foregoing certifications to the City within a commercially reasonable time, the City shall have the right on commercially reasonable notice and during normal business hours to inspect the financial books and records maintained by JoePC and either conduct an audit itself or employ an independent certified public accountant to examine or audit such books and records as may be necessary to certify the amount of Rents due with respect to any period of time and to obtain the information upon which Rents are due. JoePC shall pay the City the cost of the audit regardless of the outcome.

- (iv) The cost of any audit by the City for which JoePC is required to pay pursuant to this Section shall be the cost charged to the City by its independent auditors, or if done by City personnel, the direct employee salary cost to the City for time spent by said employees in performing such audit, but not in excess of what would have been charged to the City for the same service by the City's outside auditors.
- (v) In the event any of the forgoing audits or examination shall disclose that, after setting off any compensating errors, any Rent is due for any period of time, or any Rent has been overpaid for any period of time, then JoePC or the City, as appropriate, shall promptly pay or refund the amount disclosed, with interest at the Default Rate from the date of the issuance of the results by the certified public accountant if not paid within thirty (30) days of that date.
- (vi) In the event of a dispute over the results of any audit conducted pursuant to Section 2.4(d)(iii) or Section 2.4(d)(iv), the City and JoePC shall not take any formal action for thirty (30) days and shall work in good faith to resolve such dispute. At the end of that period of time, the parties are unable to

reach a mutually acceptable resolution, then the City and JoePC shall appoint by mutual agreement the office of an impartial nationally recognized firm of independent certified public accountants (“Independent Accountant”) who, acting as experts and not arbitrators, shall resolve the dispute. The decision of the Independent Accountant shall be final, and the fees and expenses of the Independent Accountant shall be paid by the City, on one hand, and JoePC, on the other hand, based upon the percentage that the amount actually contested but not awarded to the City or JoePC, respectively, bears to the aggregate amount actually contested by the City and JoePC.

Section 2.5 Covenants for Payment of Public Charges by JoePC.

- (a) Payment of Public Charges. JoePC, in addition to the Rent and all other payments due to City hereunder, covenants and agrees timely to pay and discharge, before any fine, penalty, interest, or cost may be added:
- (i) all real and personal property taxes, all ad valorem real property taxes, all leasehold intangible personal property tax, all taxes on Rents payable hereunder and under any permitted Sublease, any tourist, room and restaurant taxes, any public assessments, and any other public charges; and
 - (ii) non-discriminatory special Assessments pursuant to Section 2.5(e), electric, water and sewer rents, rates and charges levied, assessed or imposed by any Governmental Authority against the Leased Property, including all JoePC Improvements thereon, in the same manner and to the same extent as if the same, together with all JoePC Improvements thereon were owned in fee simple by JoePC; and
 - (iii) any other non-discriminatory impositions including or in the nature of a property or excise tax, assessment or fee imposed by any governmental authority on or for the Complex, this Lease, the Leased Property, JoePC’s interest in the Leased Property, the privilege of doing business in the Complex or on the Leased Property, or on account of any benefit delivered to or burden relieved from the Leased Property;

(collectively, "Public Charges").

- (b) JoePC's obligation to pay and discharge Public Charges with respect to the Leased Property shall not commence until the Possession Date. However, should the Bay County Property Appraiser determine that the Leased Property is taxable prior to the Possession Date, JoePC shall pay the taxes levied and at its option and expense may challenge such determination which challenge the City will support as may be required by law.
- (c) Intentionally omitted.
- (d) Contesting Impositions.
 - (i) JoePC shall have the right to contest the amount or validity, in whole or in part, of any Public Charges imposed after the Possession Date for which JoePC is, or is claimed to be, liable, by appropriate proceedings diligently conducted. Upon the termination of any such proceedings, JoePC shall pay the amount of such Public Charges or part thereof, if any, as finally determined in such proceedings, together with any costs, fees, including counsel fees, interest, penalties and any other liability in connection therewith. Where the Public Charge must be paid regardless of whether challenged (and thereby subject to a refund), JoePC shall timely pay those charges even if it intends to challenge.
 - (ii) The City shall not be required to join in any proceedings referred to in this Section 2.5(d) unless:
 - (Y) governmental Requirements shall require that such proceedings be brought by or in the name of City; or
 - (Z) the proceeding involves the assessment or attempted assessment of a real estate or ad valorem tax on the Leased Property, in which event the City shall join in such proceedings with counsel of its choice or permit the same to be brought in the City's name, both at JoePC's expense.
 - (iii) The City shall not be subjected to any liability to pay any fees, including counsel fees, costs and expenses regarding such proceedings. JoePC agrees to pay such fees, including commercially reasonable counsel fees, costs and expenses or, on demand, to make reimbursement to the City for such payment.

- (e) Special Assessments. The City retains all its governmental rights to impose nondiscriminatory special assessments or other public charges on the Leased Property, or to impose a non-discriminatory user fee for public services provided by or through the City. JoePC will be treated the same as similarly sized and situated properties or users. JoePC covenants and agrees to pay all special assessments levied on the Complex or the Leased Property that may become due during the Term.

Section 2.6 City's Proprietary Capacity Only. Except where expressly stated otherwise in this Lease or required by law, all rights, remedies, privileges, approvals, options and other matters, express or implied, to which the City may be entitled under this Lease or by operation of law with respect to the things in this Lease, shall be and are conclusively deemed to be, held by the City in its proprietary and not governmental capacity, and no action taken by the City pursuant to any of those entitlements shall be construed to be the exercise or waiver of the City's governmental or police powers. Nothing herein shall be construed to prevent or impair the City's exercise of its governmental or police powers.

ARTICLE III

CONSTRUCTION OF IMPROVEMENTS

Section 3.1 Pre-Construction Responsibilities/Conformity of Plans.

- (a) JoePC shall be responsible for conducting all site suitability and environmental, soil, and subsurface support testing necessary or convenient to prepare, and for preparing all plans and specifications for constructing the JoePC Improvements and all supporting horizontal and vertical infrastructure on the Leased Property as well as off the Leased Property where required by law (the "Approved Plans"). The Approved Plans shall conform to the Site and Complex Plan in all material respects, subject to changes, modifications and additions mutually agreed upon by the City Manager and JoePC or that JoePC otherwise reasonably determines necessary or appropriate taking into consideration matters arising during the regulatory review

process and recommendations made by the Flag chain; provided, that, any substantial relocation or deviation to the JoePC Improvements as presented on the Site and Complex Plan shall require approval of the City and JoePC. JoePC shall provide the City upon request copies of all site-suitability and environmental testing obtained.

- (b) The Approved Plans shall include a definitive site plan and specifications, including traffic circulation, pedestrian ways, walls and fences if any, street lighting, street furniture, landscaping, landscape lighting, utilities, etc.
- (c) JoePC shall complete and submit the Approved Plans to the City Manager for approval of the fact that they conform in all material respects with the Site and Complex Plan, subject to modifications made in accordance with Section 3.1(a), and the City Manager shall have twenty (20) days within which to approve, approve with conditions, request additional information or deny approval. If additional information is requested, that time period shall be extended until twenty (20) days after the City Manager receives the additional information.
- (d) The City Manager's approval of the Approved Plans' conformity in all material respects with the Site and Complex Plan is a condition precedent to the effectiveness of this Lease. Conversely, the City Manager's approval shall not be withheld if the Approved Plans conform in all material respects to the Site and Complex Plan subject to modifications made in accordance with Section 3.1(a).
- (e) JoePC represents that it will design the Hotel to meet the Hotel Standards.
- (f) On or before October 1, 2020, the City shall demolish and remove from the Leased Property the improvements known as the "old library" and the "old city hall" and shall leave the underlying property in a level, empty, neat, clean, safe, and vacant condition.

Section 3.2 Conformance with Governmental Requirements. Notwithstanding any other provision or term of this Lease or any indication in the Site and Complex Plan, all work by JoePC regarding the Complex shall conform to the Governmental Requirements and, to the extent consistent with the Governmental Regulations, the provisions of this Lease.

Section 3.3 Approved Plans. The Approved Plans for the Complex mean final working drawings and specifications (100% Design Plans) prepared according to Governmental Requirements, and including without limitation, the following information:

- (a) definitive architectural drawings;
- (b) definitive foundation and structural drawings;
- (c) definitive electrical and mechanical drawings including without limitation, plans for all lighting facilities affecting the exterior appearance of the buildings and structures; and
- (d) final specifications.

Section 3.4 Facilities to be Constructed. JoePC agrees to construct in a good and workmanlike manner the buildings, structures, horizontal and vertical infrastructure, and facilities on the Leased Property as well as all related improvements not located on the Leased Property as may be required by law to obtain the necessary development orders and building permits, all initially described in the Site and Complex Plan and subsequently detailed in the Approved Plans and the Governmental Approvals, and which conform to and are in accordance with the terms of this Lease.

Section 3.5 Schedule of Performance. The schedule attached hereto as **Exhibit G** (the “Schedule of Performance”) sets forth the anticipated dates and times of delivery of the various plans, preparation and filing of applications for and obtaining the Governmental Approvals and time schedule for the construction, purchase and completion of the JoePC Improvements and opening the Complex to the public (collectively the “Work”). JoePC shall prosecute completion of the Work with all reasonable diligence to substantially meet the Schedule of Performance. Except for a Force Majeure event, the dates in the Schedule of Performance shall not be extended without the City’s consent which shall not unreasonably denied or delayed if it is more likely than not that the extension will prove in the long term to have served the best economic and social interests of the Complex and the City’s Downtown.

Section 3.6 Access. Prior to the Possession Date, the City hereby grants JoePC a license and commercially reasonable access to the Leased Property shown in the Site and Complex Plan

whenever and to the extent necessary to carry out the pre-possession activities contemplated by this Lease, but such pre-possession access shall not unreasonably interfere with such parking and public use of the Marina Property, including without limitation the open spaces and boat ramp, as the City may make available to the public following Hurricane Michael. With respect to the use of such access, JoePC, at all times and at its sole cost, shall maintain or shall cause its general contractor or other contractor in privity with JoePC to maintain comprehensive general public liability insurance as required in Article IX. Those pre-possession activities, by way of example and not limitation, include the matters set forth in Section 3.1, and all commercially reasonable activities necessarily or conveniently related to those matters.

Section 3.7 Construction Period.

- (a) Prior to the Completion Date, JoePC shall:
 - (i) Perform and complete the Work;
 - (ii) Select the means and methods of construction. Only adequate and safe procedures, methods, structures and equipment shall be used;
 - (iii) Furnish, erect, maintain and remove such construction plant and such temporary work as may be required; and be responsible for the safety, efficiency and adequacy of the plant, appliance and methods used and any damage which may result from failure, improper construction, maintenance or operation of such plant, appliances and methods;
 - (iv) Provide all architectural and engineering services, scaffolding, hoists, or any temporary structures, light, heat, power, toilets and temporary connections, as well as all equipment, tools and materials and whatever else may be required for the proper performance of the Work;
 - (v) Order and have delivered all materials required for the Work and shall be responsible for all materials so delivered to remain in good condition;
 - (vi) Maintain the Leased Property and the Complex in a clean and orderly manner at all times commensurate with the public waterfront nature of the Complex, and remove all paper, cartons and other debris from the Leased Property and the Complex;

- (vii) Erect, furnish and maintain a field office at the Complex site during the period of construction and identify an authorized officer, employee or agent who shall be accessible during normal business hours and after-hours in the event of an emergency;
 - (viii) Protect all Work prior to its completion and acceptance;
 - (ix) Preserve all properties and improvements adjacent and leading to the Complex site, and restore and repair any such properties or improvements damaged as a result of construction of the buildings, structures and infrastructure for the Complex, whether such properties or improvements are publicly or privately owned;
 - (x) Preserve all sub-surface or exposed material, improvements and other infrastructure supporting or constituting the Leased Property or the Complex site which JoePC acknowledges to be artificial land, including without limitation bulkheads, caps, tie-backs, dead-men, pilings, fill, and similar or related items, and restore and repair any such infrastructure damaged as a result of construction of the buildings, structures and infrastructure for the Complex; and
 - (xi) JoePC shall carry on any construction, maintenance or repair activity with diligence and dispatch and shall use diligent efforts to complete the same in the shortest commercially reasonable time under the circumstances.
- (b) JoePC shall take commercially reasonable precautions to protect and shall not damage property adjacent to the Complex site or Leased Property, or which is in the vicinity of or is in anywise affected by the Work and shall be entirely responsible and liable for all damage or injury as a result of its operations to all adjacent public and private property.
- (c) JoePC shall at all times enforce discipline and good order among its employees and the general contractor at the Complex site.

Section 3.8 Status Reports. JoePC shall deliver to the City routine reports from the general contractor to keep the City informed about the progress of the Work.

Section 3.9 Certificate of Final Completion.

- (a) Promptly after completing the Work and JoePC's receipt of a Certificate of Occupancy, as applicable, for the Work, the City as landlord (in its proprietary capacity) will deliver to JoePC an appropriate instrument so certifying for the purposes of this Lease (the "Certificate of Final Completion") in recordable form;
- (b) The Certificate of Final Completion shall certify that, to the best of the City's knowledge, JoePC has satisfied all of its obligations to the City in its capacity as landlord under this Lease regarding constructing of the improvements on the Leased Property; and
- (c) If the City shall refuse or fail to provide the Certificate of Final Completion, the City shall, within thirty (30) days after written request by JoePC, provide JoePC with a written statement indicating, in commercially reasonable detail, in what respects JoePC failed to complete the Work, or is otherwise in default, and what measures and acts, in the opinion of the City, are necessary for JoePC to take or perform to obtain such certification (a "Deficiency Notice").
- (d) JoePC shall have sixty (60) days after receipt of the Deficiency Notice to correct or complete the noticed deficiencies. If the deficiencies cannot reasonably be corrected or completed within sixty (60) days, then JoePC shall have an additional commercially reasonable time within which to correct or complete them, but only if:
 - (i) JoePC within said sixty (60) day period shall have commenced and thereafter shall have continued diligently to prosecute all actions necessary to cure such default; and
 - (ii) the Complex begins and continues to operate fully and in the ordinary course of business, to the extent commercially reasonable taking into account the nature of the deficiencies.
- (e) Upon completion, deliver to the City, a copy of the Certificate of Occupancy for the Complex and all other improvements on the Leased Property. In the event JoePC receives a Certificate of Occupancy for either the Restaurant or the Hotel but not the other and the other is substantially complete, the forgoing procedure may be followed independently for each.

- (f) Within ninety (90) days after receipt of a Certificate of Final Completion, JoePC shall furnish the City a boundary survey depicting the JoePC Improvements and a certification of the out of pocket cost incurred to design, permit, and construct the initial JoePC Improvements, excluding internal employee and overhead costs of St. Joe and JoePC (the “Certified Cost of JoePC Improvements”).

Section 3.10 Connection of Buildings to Utilities, Impact Fees and Assessments.

- (a) JoePC, at its sole cost and expense for the Leased Property shall install or cause to be installed all necessary connections between the buildings and structures of the Complex and sanitary and storm drains and retention, detention or other similar facilities, and mechanical and electrical conduits whether or not owned by the City.
- (b) JoePC shall pay for the cost for the Leased Property of locating, grounding and installing new facilities for sewer, water, electrical, stormwater and other utilities as needed to service the Complex and, at its sole cost and expense for the Leased Property, will install or cause to be installed inside the property line of the Leased Property, all necessary utility lines, with adequate capacity and the sizing of utility lines for the Complex, as contemplated on the Site and Complex Plan.
- (c) JoePC acknowledges that the City shall not be required to provide impact fee credits for the Complex. The transactions contemplated by this Lease shall not be asserted to avoid the payment of applicable and non-discriminatory special non-ad-valorem special assessments, water or sewer impact fees on the Leased Property in conjunction with the development of the Complex or subsequent use of the Complex at any time in the future.

Section 3.11 Permits and Approvals. JoePC shall secure and pay for all Governmental Approvals for the Work including without limitation, any alterations and renovations made pursuant to Section 3.13, and shall pay all fees and charges due to the City in its governmental capacity or any other Governmental Authority connected with issuing such Governmental Approvals.

Section 3.12 Compliance with Laws. JoePC will comply in every respect with any Governmental Requirements in constructing and operating the Complex.

Section 3.13 Alterations and Renovations. After completing the Work, JoePC may make alterations or renovations as it deems necessary, desirable or appropriate after obtaining any Governmental Approvals necessary for such alterations or renovations; provided, that, JoePC shall not undertake any material alteration or renovation that would expand the footprint of the JoePC Improvements or increase the height of any buildings comprising the JoePC Improvements without the City's written approval.

Section 3.14 Other Development. Notwithstanding anything or impression in this Lease to the contrary, the use of the Complex in combination with or in support of any land other than (i) the Leased Property or (ii) another portion of the Marina Property, shall require the prior approval by Governing Body of the City as to the nature of the use and potential change in Participation Rent, which approval may be granted, withheld or conditioned in the City's sole and unfettered discretion.

ARTICLE IV
LAND USES

JoePC agrees and covenants to devote, during the term of this Lease, the Leased Property and the Complex only to the uses specified in this Lease and to be bound by and comply with all the provisions and conditions of this Lease. JoePC shall not seek or obtain different uses or a change in such uses either by requesting a zoning change, variance, or by court action or administrative action without first obtaining the City's consent, which consent may be granted or denied in the City's sole and unfettered discretion exercised by its Governing Body.

ARTICLE V
TRANSFERS

Section 5.1 Purpose of Restrictions on Transfer. This Lease is granted to JoePC solely to develop the Complex, and to establish and stabilize its subsequent operations according to the terms hereof, and not for speculation in landholding or development. JoePC recognizes that, in view of the importance to the general welfare of the City and the community of properly developing the Complex and maintaining and operating the Complex and related activities, the qualifications of JoePC's parent, St. Joe, are of particular interest to the community and the City. JoePC acknowledges that only because of St. Joe's experience, reputation, financial strength, unique assets, and other well-known qualifications and identity that the City is entering this Lease with JoePC, and, in so doing, that the City is relying not merely on JoePC's obligations to faithfully perform all its undertakings and covenants expressed and necessarily implied in this Lease, but also on St. Joe's interest in JoePC and St. Joe's unconditional guarantee of JoePC's performance of those things.

Section 5.2 Transfers. No Transfer may be made, suffered or created by JoePC, or its permitted successors without the consent of the Governing Body of the City. Any Transfer that violates this provision shall be null and void *ab initio* and of no force and effect. The City hereby consents to the Transfer to a Lender or any other Person of all, but not less than all, of JoePC's leasehold interest under this lease as a result of foreclosure proceedings, the granting of a deed in lieu of foreclosure, or through any other judicial process, each to satisfy the repayment of money owed by JoePC, and in each case at the conclusion of a series of financing events all of which were in strict compliance with the terms and conditions of Article VI (such Transfer a "Permitted Transfer" and such Lender or Person a "Default Tenant" and a "Permitted Transferee").

Section 5.3 Permitted Transfers. The City agrees to timely consent to the following Transfers of JoePC's interest in this Lease:

- (a) Subject to the City's right of first refusal in Section 5.5, a Transfer of all, but not less than all, of JoePC's interest in this Lease and the entire Complex to an Acceptable Tenant through the process set forth in **Exhibit C**.
- (b) Subject to the City's right of first refusal in Section 5.5 and the additional provisions of Section 5.8, a Transfer of all, but not less than all, of JoePC's

leasehold interest in the Restaurant and the Restaurant Property, and such portion of its leasehold interest in the Parking Lot as it may determine so long as after the Transfer both the Restaurant and the Hotel comply with then existing Governmental Requirements regarding vehicle parking and access (collectively the “Total Restaurant”), to an Acceptable Tenant through the process set forth in **Exhibit C**.

- (c) Subject to the City’s right of first refusal in Section 5.5 and the additional provisions of Section 5.8, a Transfer of all, but not less than all, of JoePC’s leasehold interest in the Hotel and the Hotel Property, and in such portion of its leasehold interest in the Parking Lot as it may determine so long as after the transfer both the Restaurant and the Hotel comply with then existing Governmental Requirements regarding vehicle parking and access (collectively, the “Total Hotel”), to an Acceptable Tenant through the process set forth in **Exhibit C**.
- (d) A Transfer of JoePC’s interest in this Lease to an Institutional Investor only as security for a loan of money if in strict compliance with the terms and conditions of Article VI.

Each of the forgoing transfers shall be referred to as a “Permitted Transfer” and each of the foregoing transferees shall be referred to as a “Permitted Transferee.” Upon any Permitted Transfer (except to an Institutional Investor or to a Default Tenant), JoePC shall be released from any of its obligations under this Lease assumed by the Acceptable Tenant arising after the date of Transfer. Upon any Permitted Transfer (except to an Institutional Investor or to a Default Tenant), if the Acceptable Tenant is an independent third-party unrelated to St. Joe, then St. Joe shall be released from its obligations under the Guaranty arising after the date of Transfer relating to the obligations under this Lease assumed by the Acceptable Tenant. Upon request by JoePC or St. Joe, the City agrees to promptly execute a release agreement evidencing the same. The City shall not be entitled to share in any profit or proceeds received by JoePC from a Permitted Transfer. All Transferees, whether an Acceptable Tenant or a Default Tenant or an Institutional Investor, shall be subject to the City’s option to purchase this Lease set forth in Section 14.2.

Section 5.4 Obtaining City's Consent to Transfer. To make a Permitted Transfer pursuant to Section 5.3, JoePC shall give or cause to be given to the City written notice requesting consent to the Transfer and submitting all information necessary for the City to evaluate the proposed transferee and the Transfer and to obtain the City's consent to same. Any consent to a Transfer shall not waive the City's right to consent to a subsequent Transfer.

Section 5.5 City's Right of First Refusal.

(a) During the Term, if JoePC or any Permitted Transferee (in this Section 5.5 alone the "Transferor") decides to Transfer its interest in this Lease, the Total Hotel, or the Total Restaurant, pursuant to Sections 5.2 and 5.3 (except a Transfer to an Institutional Investor as security for a loan or an authorized judicial transfer to a Default Tenant as to which the City shall have no right of first refusal) then such Transferor shall first provide the City with a copy of the bona fide, written offer (the "Offer") from an arms-length third party who proposes to be an Acceptable Tenant (the "Proposed New Tenant"), setting forth all of the terms and conditions of the Transfer and including the evaluation information set forth in **Exhibit C** with respect to the Proposed New Tenant. Upon receipt of the Offer, the Transferor and the City shall follow the Acceptable Tenant qualification process set forth in **Exhibit C** with respect Proposed New Tenant.

(b) The City shall have the right for forty-five (45) days following receipt of the Offer to elect to acquire the interest proposed to be transferred from the Transferor to the Proposed New Tenant on the terms and conditions set forth in the Offer (the "Right of First Refusal"), except that if the City's review period for the Proposed New Tenant is extended pursuant to Exhibit C, Section C(4), the City's time period for the exercise of its Right of First Refusal shall be extended accordingly.

(c) The City shall exercise its Right of First Refusal by giving written notice to the Transferor, specifying a date not earlier than 30 days and not later than 60 days after the date of its election to purchase on which the City will complete the closing on the Transfer. If the City does not elect to exercise its Right of First Refusal, the Transferor shall be free to complete the Transfer to the Proposed New Tenant in

accordance with the Offer and this Lease. If any of the material terms or conditions of the Offer change prior to the closing with the Proposed New Tenant, the Transferor must give written notice of such change to the City, and the City shall have a forty-five (45) day period during which it may elect to acquire the interest of the Transferor proposed to be Transferred on the terms and conditions set forth in the revised Offer.

Section 5.6 Effectuation of Transfers. No Transfer shall be effective until all of the following conditions precedent are satisfied:

- (a) Executed copies of the Transfer documents and other agreements between the parties to the Transfer are delivered to the City; and
- (b) All parties to this Lease have executed and delivered a current Estoppel Certificate; and
- (c) Each Permitted Transferee, shall have executed and delivered to the City and JoePC, severally, a current Estoppel Certificate relating to all agreements between the Permitted Transferee and the Transferor.

Section 5.7 Subleasing. Notwithstanding anything or impression in this Lease to the contrary, JoePC shall not enter or offer to enter a Sublease without the prior approval of the City as to the nature of the Subtenant's use and any alteration of the Complex involved, which approval shall not be unreasonably withheld or delayed and shall be based upon consideration of such factors as, by way of illustration and not limitation, whether the Sublease is consistent with the public image for Downtown and the Marina which the City has demonstrated its intention to promote, the size and duration and economic value of the Sublease, and whether the Sublease alone or in conjunction with other Subleases may in any significant way cause JoePC's control of the Complex in accordance with this Lease to be diminished which the City will not permit.

Section 5.8 Additional Provisions Relating to Split and Transfer of Total Restaurant or Total Hotel or Both Independently. Upon JoePC's request and if there is no JoePC Event of Default continuing or any circumstance which with the passage of time or the giving of notice would constitute a JoePC Event of Default, the City shall in good faith

cooperate in the dividing this Lease into two leases to permit JoePC to Transfer either the Total Restaurant to an Acceptable Tenant or the Total Hotel to an Acceptable Tenant, each such new tenant to be determined as an Acceptable Tenant by the process set forth in **Exhibit C**.

- (a) If at the conclusion of the process set forth in **Exhibit C** the Proposed New Tenant is determined to meet the Acceptable Tenant Criteria, Transfer to that Proposed New Tenant shall be effected by the modification of this Lease and the novation of a second lease separating the Total Restaurant and the Total Hotel (the “Amended and Restated Restaurant Lease” and the “Amended and Restated Hotel Lease,” respectively).
- (b) Taken together, the form and substance of the Amended and Restated Restaurant Lease and the Amended and Restated Hotel Lease shall provide the same terms, conditions, revenue, protections, benefits, and obligations due to the City and the public as this Lease, no more and no less.
- (c) All benefits and obligations in this Lease relating to the Promenade, the Adjacent Slips, and the Exclusive Adjacent Slips shall be incorporated in the lease of the Total Hotel.
- (d) As a condition precedent to splitting this Lease, JoePC, St. Joe, and the City shall each deliver severally to the other an Estoppel Certificate relating to this Lease and any agreement affecting or involving this Lease.
- (e) In the event only the Total Restaurant or the Total Hotel are to be Transferred, as a condition precedent to that Transfer JoePC shall accept and execute the amended and restated lease of the remainder of the Complex not transferred and St. Joe shall unconditionally guarantee JoePC’s full and timely performance of JoePC’s obligations under that the amended and restated lease.
- (f) The City shall not be entitled to share in any profit or proceeds received by JoePC from the sale and Transfer.
- (g) This Section shall be liberally construed to effect the present intent and agreement of the parties in future circumstances now unknowable and to

the fullest extent logically possible shall not be construed as an unenforceable “agreement to agree.” The parties agree to formally mediate any disagreement between themselves in drafting the amended and restated ground leases giving effect to this section before seeking a judicial remedy. The only judicial remedies available to the parties to enforce this Section shall be a declaratory judgement or specific performance or both. Neither party shall be liable to the other under any circumstances for any direct, indirect, or consequential damages resulting from or associated with any disagreement or delay in drafting and executing the amended and restated leases, or for the other party’s attorneys’ or consultants’ fees incurred in the process contemplated by this Section. The prospective Transferee shall not be a third-party beneficiary of this Lease or Section and shall have no standing in the negotiation and development of the amended and restated leases between the parties.

ARTICLE VI

MORTGAGE FINANCING; RIGHTS OF MORTGAGEE AND JOEPC

Section 6.1 JoePC Financing.

- (a) JoePC shall have the right during the Term to subject JoePC’s leasehold interest in the Leased Property to a first leasehold mortgage, deed of trust, assignment of lease, security agreement or other method of financing or refinancing (a “Leasehold Mortgage”), or to any one or more extensions, modifications or renewals or replacements of a Leasehold Mortgage, securing a loan of money with no more than one Lender or one lead Lender in a participating group. JoePC shall immediately notify the City in writing of the name and address of the Lender, a copy of the Leasehold Mortgage, and a copy of the instrument(s) evidencing the loan of money secured by the Leasehold Mortgage.
- (b) No voluntary action by JoePC to cancel, surrender, terminate or modify this Lease shall be binding upon or effective as against the Lender, no cancellation (other than

a termination of this Lease by the City pursuant to the terms hereof), surrender or modification of this Lease or waiver or amendment of any provision of this Lease shall be binding upon or effective as against any Lender, and the City shall not enter into an agreement with JoePC to amend, modify, terminate or cancel this Lease and shall not permit or accept a surrender of this Lease without, in each case, the prior written consent of the Lender.

Section 6.2 City's Financing. The City shall have the right to mortgage its fee simple title to the Leased Property, provided that any such mortgage shall be expressly subordinate to all of the rights and interests of JoePC under this Lease, and to the rights and interests of any Lender, including without limitation, the rights and interests of any Lender under a New Lease contemplated by Section 6.5. If the City does exercise its right to mortgage its fee simple title to the Leased Property, then such Lender shall execute and deliver a non-disturbance agreement in favor of JoePC and its Lender, the form and substance of which must be reasonably acceptable to JoePC and its Lender. The foregoing is not intended to affect or subordinate City's option to purchase the Leased Property under Section 14.2 below.

Section 6.3 Notice to Lender. Provided Lender and JoePC have provided the City with written notice of the name and address of the Lender, then in the event JoePC shall be in default under this Lease, the City shall send a copy of the written notice of the default to Lender. Lender shall have thirty (30) days after the expiration of any applicable grace periods with respect to such default within which to cure or remove such default, and if the default cannot with diligence be cured within such thirty (30) day period, then Lender shall have a reasonable time thereafter to effect such cure, provided that Lender promptly commences to cure the same and thereafter pursues the curing of the default with diligence. Notwithstanding any other provision of this Lease, the City shall not have any right pursuant to this Lease or otherwise to terminate this Lease due to JoePC's default unless the City shall have first given a copy of the written notice of default to Lender and unless Lender shall have failed to cure or remove, or cause to be cured or removed, the default, within the time required by this Section 6.3. Notwithstanding anything contained herein to the contrary, a Lender shall not be required to cure or remedy any default (a "Non-

Curable Default”) which (i) is not a default in the payment of money or (ii) is not a default in the repair or maintenance of the Leased Property, including maintaining the exterior appearance and attractiveness of the improvements, including the Promenade, and all landscaping, or any part thereof, or like obligation, (iii) is not a default in the maintenance of insurance or any like obligation, and (iv) is a default which cannot be cured by the Lender, such as a bankruptcy by JoePC or a wrongful assignment of this Lease or a wrongful subletting of the Leased Property, and upon foreclosure or other acquisition of JoePC’s interest in this Lease by the Lender or its designee, all Non-Curable Defaults shall be deemed to have been fully cured as to the Lender, its designee and its successors and assigns.

Section 6.4 Acceptance of Cure. The City will accept performance by Lender, within the applicable period set forth in Section 6.3 above, of any covenant, agreement or obligation of JoePC contained in the Lease with the same effect as though performed by JoePC.

Section 6.5 New Lease.

- (a) Rejection of this Lease by the City in a bankruptcy proceeding involving the City shall not constitute a termination of this Lease unless JoePC, with the Lender’s consent, or the Lender acting on its behalf, elects pursuant to any debtor relief laws to treat this Lease as terminated. If this Lease shall not be treated as terminated under debtor relief laws, JoePC (or the Lender if it has succeeded to JoePC’s interest herein) may remain in possession thereof and this Lease shall continue in full force and effect in accordance with its terms, except as such terms may be modified by such debtor relief laws. If this Lease is rejected in a bankruptcy proceeding involving the City pursuant to debtor relief laws and if JoePC (or the Lender on its behalf) elects pursuant to any debtor relief laws to retain its rights under this Lease, then the rights and remedies of the parties will continue to be governed by the terms of this Lease and JoePC shall continue to have all rights of a tenant under applicable law. The City agrees that the rights of the Lender under the Leasehold Mortgage and any other document or instrument executed and delivered in connection with the Leasehold Mortgage shall not be affected or

impaired by the rejection of this Lease by the City. The City agrees to provide the Lender with at least ten (10) business days' prior written notice of its intent to seek to reject this Lease in any bankruptcy proceeding involving the City and that it shall not object to the Lender's standing to file pleadings, appear in court or otherwise take any and all actions which the Lender deems necessary or desirable in order to protect its rights under the Leasehold Mortgage or its interest in the Leased Property. The City and JoePC agree, for the benefit of the Lender, that upon any such rejection of this Lease by the City, the right to exercise the election arising under the debtor relief laws either to treat this Lease as terminated or to retain JoePC's rights hereunder shall be exercisable exclusively by the Lender and not by JoePC. Pending the City's written receipt of notice from the Lender as to such election, JoePC shall without further act or deed be deemed to have elected to retain its rights under this Lease and to remain in possession of the Leased Property.

- (b) In the event of the rejection or disaffirmance of this Lease by JoePC pursuant to any debtor relief laws, the City will enter into a new lease of the Leased Property with Lender or its designee or nominee within thirty (30) days after the request of Lender. The new lease shall be effective as of the date of rejection or disaffirmance of this Lease and shall be upon the same terms and provisions contained in this Lease (including the amount of the Rent and other sums due from JoePC hereunder). In order to obtain a new lease, Lender must make a written request to the City for the new lease within sixty (60) days after the Lender is notified in writing of the effective date of rejection or disaffirmance of the Lease by JoePC, as the case may be, and the written request must be accompanied by a copy of the new lease, duly executed and acknowledged by Lender or the party designated by Lender as JoePC. In addition, Lender must cure all defaults under the Lease that can be cured by the payment of money and pay to the City all Rent and other sums that would have been due and payable by JoePC under this Lease but for the rejection or disaffirmance of Lender's rights under this Section 6.5(b) are in addition to, and not limited by, Lender's right to cure under Section 6.3. From the effective date of rejection or disaffirmance of this Lease to the date of execution

and delivery of such new lease or the expiration of the period during which Lender may make a request; Lender may, upon payment of the Rent and any other sums as may be due from JoePC, use and enjoy the leasehold estate created by this Lease without hindrance by the City. For so long as any Lender shall have the right to enter into a new lease with the City pursuant to this Section 6.5, the City shall not enter into a new lease of the Leased Property with any Person other than such Lender, without the prior written consent of such Lender.

Section 6.6 Delay for Foreclosure. If the City has given Lender notice of JoePC's default under Section 6.3 and Lender desires to cure JoePC's default but is unable to do so while JoePC is in possession of the Leased Property, or during the period of time that Lender's proceedings are stayed by reason of JoePC being subject to Chapter 7 or 11 of the Bankruptcy Code of the United States, as amended, or if the City has elected to terminate this Lease and Lender desires to obtain a new lease pursuant to Section 6.5 but has not yet acquired JoePC's leasehold interest in this Lease, then Lender shall have the right to postpone the specified date for effecting a cure of this Lease or obtaining a new lease for a period reasonably sufficient to enable Lender or its designee to acquire JoePC's interest in this Lease by foreclosure of its Leasehold Mortgage or otherwise, as long as the City is paid the Rent and other sums due under this Lease during the postponement. Lender shall exercise the right to extend the cure period or the date for obtaining a new lease by giving the City notice prior to the last date that the City would otherwise be entitled to elect a cure or obtain a new lease within the Term and by tendering to the City any Rent and other charges then in default.

Section 6.7 No Surrender. If any Leasehold Mortgage known to the City is in effect, the City will not accept a voluntary surrender of this Lease.

Section 6.8 No Subordination of Fee. Nothing contained in this Lease shall be or ever will be construed as a subordination to any Leasehold Mortgage of the City's fee interest in the Leased Property or its reversionary interest in the JoePC Improvements. Upon the expiration or

termination of this Lease, except as specifically otherwise provided in this Article VI, any Leasehold Mortgage of JoePC's interest in the Leased Property shall be null and void.

Section 6.9 Transfer to a Default Tenant. The City agrees that:

- (a) A Default Tenant shall become a substituted tenant under this Lease as provided in Section 5.2. without necessity of any additional consent of or approval by the City ;
- (b) If the Default Tenant is the Lender or a nominee or designee of Lender, (i) such Person shall not be required to assume JoePC's obligations under this Lease, but shall be deemed to have agreed to perform all of JoePC's obligations hereunder arising or accruing from and after the date of such acquisition and for so long as such Person is the owner of the leasehold estate; (ii) such Person, upon a Permitted Transfer of all of its interest or control in the leasehold estate such Person shall be relieved of all obligations and liabilities under the Lease other than those arising or accruing while such Person is the owner of the leasehold estate; and (iii) the City shall look solely to the interest of such Person in the Leased Property in the event of the breach or default by such Person under the terms of this Lease and the City agrees that any judgment or decree to enforce the obligations of such Person shall be enforceable only to the extent of, and such Person's liability hereunder shall be limited to, such Person's interest in the Leased Property.
- (c) The City and JoePC covenant that, to confirm the automatic vesting of title to this Lease in a Default Tenant as provided in this paragraph, each will execute and deliver such further assurances and instruments of assignment and conveyance as may be commercially reasonably required by the other or the purchaser at foreclosure sale or the Default Tenant assignee for that purpose.

Section 6.10 Recognition Agreement. The City agrees that it will, from time to time, and at JoePC's or Lender's request, execute a ground lessor/recognition agreement with and in favor of any Lender in connection with JoePC financing or refinancing of all or part of the purchase of JoePC's interest in the Lease and/or the construction or renovation of the JoePC Improvements. Such agreement shall be in form and content reasonably acceptable to such Lender and the City

and will be provided by the City upon the written request of Lender or JoePC within fifteen (15) days of written request therefor.

Section 6.11 Lender as Beneficiary; Nonliability for Covenants. The provisions of this Article VI are for the benefit of any Lender and may be relied upon and shall be enforceable by any Lender as if such Lender were a party to this Lease.

Section 6.12 Leasehold Mortgage Subordinate to City's Option to Purchase Lease. The Leasehold Mortgage shall be, and shall expressly recite that it is, subordinate to the City's options to repurchase this Lease. Provided Lender and JoePC have provided the City with written notice of the name and address of the Lender, then the City shall give the Lender prompt, written notice of the exercise of its option.

ARTICLE VII

EVENTS OF DEFAULT and REMEDIES

Section 7.1 Events of Default by JoePC. Each of the following occurrences shall constitute an "Event of Default" of JoePC under this Lease:

- (a) Failure of Payment of Money.
 - (i) Failure of JoePC to pay any Rent, Additional Rent or Public Charges or any other payments of money as herein provided or required when due. In the event that any Rent, Additional Rent, Public Charges or other payment of money is not paid to the City on the date the same becomes due and payable, the City shall give JoePC written notice and a fifteen (15)-day grace period following delivery of that notice to pay same prior to such failure being deemed an "Event of Default";
 - (ii) If JoePC fails to pay to the City the amount due within the fifteen (15) day grace period, JoePC shall then pay the delinquent payment plus a late fee equal to five percent (5%) of the amount due no later than the 30th day after the date said payment was due, the failure of which shall entitle the City to

collect the greater of the late fee or interest (at the Default Rate) due thereon until paid;

- (iii) In addition to the foregoing, but only after the fifteen (15)-day grace period terminates, the City will be entitled to proceed to exercise any and all remedies provided herein for a JoePC Event of Default; or

(b) Bankruptcy:

- (i) If any petition is filed by or against JoePC, as debtor, seeking relief (or instituting a case) under Chapters 7 or 11 of the United States Bankruptcy Code or any successor thereto unless an involuntary bankruptcy is finally dismissed within ninety (90) days after it was filed;
- (ii) If JoePC admits its inability in writing to pay its debts;
- (iii) If a receiver, trustee, or other court appointee or nominee, is appointed, or similar type of appointment is made, for all or a substantial part of JoePC's property and such receiver, trustee, nominee, or other appointee is not discharged within ninety (90) days from such appointment;
- (iv) If this Lease or the Complex is levied upon or attached by process of law, and such levy or attachment is not discharged within ninety (90) days from such levy or attachment; or
- (v) If a receiver, trustee, or other court appointee or nominee is appointed, or similar type of appointment is made, for any of St. Joe's property that includes all or part of its interest in JoePC, and such receiver, trustee, nominee, or other appointee is not discharged within ninety (90) days from such appointment.

- (c) Failure to Perform Regarding Other Covenants, Conditions, Standards, and Agreements. JoePC's failure to perform according to, or to comply with, any of the other covenants, conditions, standards, and agreements to be performed or complied with by JoePC in this Lease (except for failure to obtain or maintain the Hotel Standards or the Restaurant Standards as described in 7.1(d)(vi)), and the continuing failure for a period of sixty (60) days after notice thereof in writing from the City to JoePC (which notice shall specify how the City contends that

JoePC has failed to perform any such covenants, conditions and agreements), shall, subject to JoePC's right to contest the alleged Event of Default, constitute a JoePC Event of Default; provided, however, if such default is capable of cure, but cannot reasonably be cured within sixty (60) days, then JoePC shall have an additional commercially reasonable time within which to cure such JoePC Event of Default, but only if:

- (i) JoePC within said sixty (60) day period shall have commenced and thereafter shall have continued diligently to prosecute all actions necessary to cure such default; and
- (ii) the Complex continues to operate fully and in the ordinary course of business, to the extent commercially reasonable taking into account the nature of the alleged failure to perform according to the covenant, condition or agreement in question.

(d) Other JoePC Events of Default:

- (i) If, during the Term, any applicable Trademark License Agreement is terminated and a permitted, replacement Trademark License Agreement is not entered into within ninety (90) days thereafter, except that:
 - (1) if JoePC shall have commenced and continued diligently to replace the Trademark License Agreement within such ninety (90) day period and the Hotel continues to operate fully and in the ordinary course of business, then JoePC shall have an additional, commercially reasonable period of time within which to enter into a permitted Trademark License Agreement, or
 - (2) if within the first forty-five (45) days of such ninety (90) day period, JoePC shall have entered into an Independent License Agreement and the Hotel continues to operate fully and in the ordinary course of business, then there shall not be a JoePC Event of Default.

If, during the Term, there is a default by JoePC under the Independent License Agreement which remains uncured for a period of sixty (60)

days from occurrence, except that if JoePC shall have commenced and continued diligently to enter a new Trademark License Agreement within such sixty (60) day period and the Hotel continues to operate fully and in the ordinary course of business, then JoePC shall have an additional, commercially reasonable period of time within which to present to the City a new Trademark Licensing Agreement and Flag.

- (ii) If JoePC voluntarily ceases construction of the Work for a period in excess of thirty (30) consecutive days and fails to start construction within sixty (60) days after receiving notice pursuant to Subsection 7.1(c), except where due to a Force Majeure event.
- (iii) If JoePC sells or assigns all or any portion of its interest in this Lease or Subleases all or any portion of the Complex or the Leased Property, or attempts any Transfer by entering into an agreement to sell or assign its interest in this Lease or the Complex or to Sublease all or any portion of the Leased Property or the Complex or by agreeing to a Transfer without complying with the provisions governing same in this Lease, and (except where a Transfer or attempted Transfer is expressly made void *ab initio* herein and therefore cannot be corrected) fails to correct such Transfer within an additional thirty (30) days of receiving notice as provided in Subsection 7.1(c), which provides a total of ninety (90) days after notice to correct such Transfer.
- (iv) JoePC's failure to obtain or maintain the Hotel Standards or the Restaurant Standards shall become an Event of Default as set forth in **Exhibit B** and **Exhibit J**, respectively.
- (e) An Event of Default concerning any part of the Complex shall constitute a default with respect to the entire Lease and all the Leased Property.

Section 7.2 Remedies for Default by JoePC.

- (a) Upon the occurrence of a JoePC Event of Default, subject to the provisions of Article VI, the City shall be entitled to seek all legal and equitable remedies available under Florida law, including without limitation, termination of this Lease, removal of JoePC from the Leased Property, specific performance, injunctive relief, and damages. If the City obtains the right to terminate this Lease, by mutual agreement with JoePC or from a final order by a court with jurisdiction from which the time for appeal has expired or a binding arbitration panel, the Term of this Lease shall terminate upon the mutually agreed upon date or the date set forth in the final order from such court or arbitration panel, as fully and completely as if that date were the date herein originally fixed for the expiration of the Term. On the date mutually agreed upon or as specified in such final order, JoePC shall then quit and peaceably surrender the Complex (which includes the Leased Property and the JoePC Improvements) to the City in accordance with Section 11.5;
- (b) Upon the termination of this Lease, as provided in this Section 7.2, all rights and interest of JoePC in and to the Leased Property and the JoePC Improvements, and every part thereof shall cease and terminate, and the City may, in addition to any other rights and remedies it may have, retain all sums paid to it by JoePC under this Lease; and
- (c) If this Lease is terminated after the Possession Date but prior to the Completion Date due to the occurrence of a JoePC Event of Default, JoePC hereby agrees that, the City shall have the right upon its request, but not the obligation, to take assignment of all JoePC's construction contracts and, without payment or further permission from either JoePC or the professionals that created or prepared same, to use the plans and specifications, including without limitation, the Approved Plans, designs, approvals, permits and other work product produced by JoePC and/or others for use in the development, construction and operation of the Work; and in support of this agreement, JoePC covenants to include reference to this provision and the City's rights here stated in all such contracts with third parties.

Section 7.3 Event of Default by the City and Remedies. An event of default by the City shall be deemed to have occurred under this Lease if the City fails to perform any obligation or fulfill any covenant or agreement of the City set forth in this Lease and such failure shall continue for sixty (60) days following the City's receipt of written notice of the non-performance; provided, however, the City shall not be in default of this Lease:

- (a) if the City provides JoePC with a written response within said sixty (60) day period indicating the status of the City's resolution of the default and providing for a mutually agreeable schedule to correct same, and the City commences and diligently continues to prosecute all actions necessary to cure such default to completion in substantial conformity with that schedule, or
- (b) with respect to any default that is capable of being cured but that cannot reasonably be cured within said sixty (60) day period, if the City commences to cure such default within such sixty (60) day period (or as soon thereafter as is reasonably possible) and diligently continues to cure the default until completion.

Upon the occurrence of an event of default by the City, JoePC shall be entitled to seek all legal and equitable remedies available under Florida law, including, without limitation, termination of this Lease.

Section 7.4 Force Majeure. Neither the City nor JoePC, as the case may be, shall be considered in breach of or in default of any of its non-monetary obligations hereunder, including without limitation suspension of construction activities, by reason of unavoidable delay due to strikes, lockouts, pandemic or epidemic, acts of God, inability to obtain labor or materials due to governmental restrictions, riot, war, hurricane or other similar causes beyond the commercially reasonable control of a party despite its commercially reasonable efforts (in each case, an event of "Force Majeure") and the applicable time period shall be extended for the period of the Force Majeure event.

Section 7.5 Remedies Cumulative; No Waiver. The rights and remedies of the parties to this Lease, whether provided by law or by this Lease, shall be cumulative and concurrent, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it,

at the same or different times, of any other such remedies for the same default or breach, or of any of its remedies for any other default or breach by the other party. No waiver of any breach, default, or Event of Default hereunder shall extend to or affect any subsequent or other breach, default, or Event of Default then existing, or impair any rights, powers or remedies consequent thereon, and no delay or omission of any party to exercise any right, power or remedy shall be construed to waive the same or any other breach, default, or Event of Default or to constitute acquiescence thereof, under present or any future circumstances.

Section 7.6 Right to Cure.

- (a) If JoePC shall default in the performance of any term, covenant or condition to be performed on its part hereunder, the City may, in its sole discretion, after notice to JoePC and beyond applicable cure periods (or without such notice and cure in the event of an emergency), perform the same for the account and at the expense of JoePC. If, at any time and by reason of such default, the City is compelled to pay, or elects to pay, any sum or money or do any act which will require the payment of any sum of money, or is compelled to incur any expense in the enforcement of its rights hereunder or otherwise, including the fees of attorneys, engineers or other consultants, such sum or sums shall be deemed Additional Rent hereunder and, together with interest thereon at the Default Rate accruing after the date of demand, shall be repaid to the City by JoePC upon demand.
- (b) If the City shall default in the performance of any term, covenant or condition to be performed on its part hereunder, JoePC may, in its sole discretion, after notice to the City and beyond applicable cure periods (or without such notice and cure in the event of an emergency), perform the same for the account and at the expense of the City. If, at any time and by reason of such default, JoePC is compelled to pay, or elects to pay, any sum or money or do any act which will require the payment of any sum of money, or is compelled to incur any expense in the enforcement of its rights hereunder or otherwise, including the fees of attorneys, engineers or other consultants, such sum or sums shall be reimbursed to JoePC by

the City, upon demand, together with interest thereon at the Default Rate from the date demanded until the date paid.

Section 7.7 No Third-Party Beneficiaries. Except as provided in Article VI with regard to the Lender alone, there are no third-party beneficiaries of this Lease, and each party represents and warrants to the other that it is not aware of any person claiming, or any circumstances under which he, she, or it could lawfully claim to be a third-party beneficiary of this Lease.

ARTICLE VIII

PROTECTION AGAINST MECHANICS' LIENS AND OTHER CLAIMS; **INDEMNIFICATION; ENVIRONMENTAL MATTERS**

Section 8.1 JoePC's Duty to Keep Complex Free of Liens.

- (a) JoePC shall not make, permit or involuntarily suffer any vendor's lien, mechanics' lien, governmental lien, environmental lien, or any other lien or lien rights or interest in the Complex or the Leased Property or any part thereof, arising from or associated with any work performed or to be performed, or labor or materials furnished or to be furnished, to the Complex or the Leased Property or any part thereof, excepting only to the right, title and interest of JoePC in this Lease and only during the pendency of a contest which is expressly authorized under Section 8.2 of this Lease and only if JoePC strictly complies with the requirements of that Section.
- (b) Pursuant to Florida Statutes Section 713.10, any and all liens or lien rights shall extend to and only to the right, title and interests of JoePC in this Lease and shall always be subject to the subject to the JoePC Improvements and not to the Leased Property.
- (c) The right, title and interest of the City in the Leased Property shall not be subject to liens or claims of liens by statute or common law for improvements made by JoePC. Nothing contained in the Lease shall be deemed or construed to constitute the consent or request of the City express, implied, or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the

furnishing of any materials for any improvement of, alteration to, or repair of the Complex, or any part thereof, or any improvements on the Leased Premises, nor as giving JoePC, any Lender, or any permitted Subtenant any right, power or authority to contract for, or permit the rendering of, any services or the furnishing of materials that would give rise to the filing of any lien, mortgage or other encumbrance against City's interest in the Leased Property, the Complex, or any part thereof, or against assets of the City, or City's interest in any Rent and other monetary obligations of JoePC as defined in this Lease.

- (d) Notice is hereby given, and JoePC shall cause all construction agreements entered into between a JoePC, or any permitted Subtenant, and a general contractor or other contractor or materialman in privity with JoePC or a permitted Subtenant to provide that:
- (i) City shall not be liable for any work performed or to be performed at the Complex or on or associated with the Leased Property or the Complex, or any part thereof, for JoePC, any Lender, or permitted Subtenant, or for any labor or materials furnished or to be furnished to the Complex or the Leased Property, or any part thereof, and
 - (ii) no mechanic's, laborer's, vendor's, materialman's or other similar statutory lien for such work or materials shall be attached to or affect City's interest in the Leased Property or any part thereof, or any assets of the City, or the City's interest in any Rent or other monetary obligations of JoePC arising under the Lease.

Section 8.2 Contesting Liens. If JoePC desires to contest any lien upon its right, title and interest in this Lease as described in Section 8.1, JoePC shall notify the City of JoePC's intention to do so within thirty (30) days after the filing of the lien, and within that same thirty (30) day period, at JoePC's sole cost and expense, JoePC shall protect the City by a good and sufficient bond against the lien and any cost, liability or damage arising out of such contest. The lien, if JoePC timely provides the bond described above, shall not be a JoePC Event of Default hereunder until thirty (30) days after the final determination of the validity thereof if, within that time, JoePC shall

satisfy and discharge the lien to the extent held valid. The satisfaction and discharge of a lien finally determined to be valid shall not, in any case, be delayed until execution is had on any judgment associated with the lien, or else such delay and failed satisfaction shall be conclusively deemed a monetary JoePC Event of Default hereunder. In the event of any such contest, JoePC shall protect and indemnify the City against all loss, expense and damage resulting therefrom as provided in Section 8.3.

Section 8.3 Indemnification.

- (a) JoePC hereby agrees and covenants to indemnify, defend (with counsel selected by the JoePC, after consulting with the City) and save harmless the City from and against any and all claims, actions, damages, liabilities, losses, costs and expenses, including without limitation commercially reasonable attorneys' fees (collectively, "Losses") to the fullest extent permitted by law, asserted by or through any visitor, trespasser, licensee, invitee, guest, permitted Subtenant (or the visitor, trespasser, licensee, invitee, or guest of that Subtenant), or any other person or Governmental Authority, at any time using or occupying or visiting the Complex or the Leased Property or any part thereof, or by any person performing work on or in the Complex or Leased Property or any part thereof, arising from or associated with:
 - (i) any default, breach or violation or non-performance by JoePC of this Lease or any Governmental Requirements, or any provision hereof or thereof;
 - (ii) JoePC's use, occupancy, or operation of the Complex, the Leased Property, or any part thereof;
 - (iii) the negligent or more culpable acts or omissions of JoePC;
 - (iv) any challenge to the validity of this Lease or any Transfer effected by a third party through legal proceedings or otherwise, except such challenge arising by, through or under the fee interest of the City; or
 - (v) otherwise arising in connection with the subject matter of this Lease.
- (b) JoePC's indemnity under this Section 8.3 shall include any Losses resulting from constructing the Complex and any other buildings, structures or horizontal or

vertical improvements, infrastructure and support, and any subsequent renovation and/or alterations thereof by JoePC.

- (c) Notwithstanding anything to the contrary in this Agreement, JoePC is not obligated to indemnify, hold harmless or defend the City against any claim (whether direct or indirect) to the extent such claim or corresponding Losses arises out of or results from, in whole or in part, the negligence, willful misconduct, failure to perform or other breach of the obligations of this Lease by the City or its agents.
- (d) JoePC covenants and agrees that any contracts entered into by JoePC and the general contractor or other contractor in privity with JoePC for the Work shall include the indemnities required by this Section 8.3 and Section 8.4 from the general contractor or other contractor in privity with JoePC in favor of JoePC and the City.
- (e) The liability of JoePC under this Lease shall not be limited in any way to the amount of proceeds actually recovered under the policies of insurance required to be maintained pursuant to the terms of this Lease.
- (f) Any tort liability to which the City is exposed under this Lease shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, as may be amended, which statutory limitations shall be applied as if the parties had not entered into this Lease, and City expressly does not waive any of its rights and immunities thereunder.

Section 8.4 Environmental Matters.

- (a) Defined Terms.
 - (i) “Environment” means existing land, fill, soil, waters (including surface waters, storm-waters, waters of St. Andrew Bay, and groundwaters), sand and sediments, submerged lands and vegetation, surface and subsurface strata, ambient air, indoor air and indoor air quality, interior or exterior or both of any building or improvement, and the foundations and the sub-

adjacent and adjacent support thereof and of any other environmental medium.

- (ii) “Environmental Condition” means any condition or set of physical circumstances in, on, under, or affecting the Complex, the Leased Property, or any part thereof or adjacent thereto, that may constitute a threat to or endangerment of life, health, safety, property, or the Environment, including, but not limited to:
 - (A) the presence, of any Hazardous Substance or Material on or from the Leased Property;
 - (B) the presence of any underground or above-ground storage tanks, as defined in Subtitle I of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6991 et. seq., the regulations thereunder and amendments thereto, for the storage of hazardous wastes, materials, substances, oil, petroleum products, or their byproducts;
 - (C) any PCB, asbestos or any other substances specifically regulated under the Toxic Substances Control Act, 15 U.S.C. 2601 or regulations issued thereunder, as amended from time to time; and
 - (D) any open dump or system of refuse disposal for public use without a permit, as prohibited by 42 U.S.C. 6945 and/or Florida law equivalent, or the regulations issued thereunder.
- (iii) “Environmental Law” or “Environmental Laws” means any federal, state, or local statute, law, ordinance, code, common law, rule, regulation , order, or decree, regulating, relating to or imposing liability or standards of conduct concerning the protection of the Environment, natural resources, health and safety, and/or activities involving any Hazardous Substance or Material, including without limitation asbestos, asbestos-containing materials, materials presumed by law to contain asbestos, polychlorinated biphenyls (“PCBs”), petroleum, petroleum byproduct (including but not

limited to, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, and all other liquid hydrocarbons, regardless of specific gravity), natural or synthetic gas products, radioactive materials, liquids, and gases (including radon), and/or hazardous or toxic substances, chemicals or materials, or any other waste, materials, pollutant or contaminant that is regulated to protect the Environment, as may now or at any time hereafter be in effect, including without limitation, the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq., the Clean Water Act Amendments thereto, the Safe Drinking Water Act, the Hazardous Materials Transportation Act, 49 U.S.C. 1811, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et. seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et. seq., the Clean Air Act, 42 U.S.C. 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. 2601, et. seq., the Emergency Planning and Community Right--To-Know Act, the Occupational Safety and Health Act, 29 U.S.C. 651, et. seq., the Refuse Act of 1989, 33 U.S.C. 407, et seq., the Oil Pollution Act, 33 U.S.C. 2701, et seq., and the amendments and regulations pertaining thereto, and the Florida State laws, rules, regulations, and local ordinances pertaining to protection of the Environment, health and safety, and any amendments to any such acts and laws, or any other or future applicable federal, state or local law, including without limitation, any rule, regulation, order, decree, or ordinance adopted pursuant to the preceding laws or other similar law, regulation, rule, order, decree, or ordinance that is in effect at any time hereafter relating to the protection of life, health, safety, and the environment.

- (iv) “Environmental Requirements” means all present and future Governmental Requirements, including without limitation, the Environmental Laws, rules, regulations, statutes acts, ordinances, authorizations, judgments, decrees, concessions, grants, orders, agreements or other restrictions and requirements or lawful obligations relating to any Environmental

Conditions or any Hazardous Substances or Materials on, in, or under the Leased Property.

- (v) “Hazardous Substance” or “Hazardous Material” means (a) radioactive materials, radon, asbestos-containing materials, and polychlorinated biphenyls (“PCBs”), and (b) any other chemicals, materials, or substances defined or regulated as toxic, volatile, corrosive, hazardous, or dangerous, or as a pollutant or contaminant under any applicable federal, state, or local health, or safety law, or any Environmental Law, including without limitation, (i) those substances included within the definitions of any one or more of the terms “hazardous substances,” “hazardous materials,” “toxic substances,” and “solid waste,” (ii) those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto), (iii) such other substances, gases, liquids, materials, and wastes which are or become classified as hazardous, radioactive, or toxic under any Environmental Law, and (iv) any material, gases, liquids, or waste, or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls (“PCBs”), (D) within the per- and polyfluoroalkyl substances (“PFAS”), (E) designated as hazardous pursuant to Section 311 of the Clean Water Act, (F) ignitable, volatile, flammable, or explosive, or (G) radioactive.
- (vi) “Environmental Permit” means any Governmental Approval required under any Environmental Law in connection with the ownership, use, development, redevelopment, or operation of the Complex and the Leased Property relating to the Clean Water Act, the Rivers and Harbors Act, the Coastal Zone Management Act, the Clean Air Act, the Safe Drinking Water Act, radon, and any other Environmental law, including Florida law and local law and ordinances, and for the storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous

Substances or Hazardous Material, or the authorized sale, transfer or conveyance of the Complex, this Lease, or the Leased Property, and all supporting documentation thereof.

- (vii) “Environmental Claim” means any notice of violation, claim, demand, abatement or other order or direction (conditional or otherwise) by any Governmental Authority or any person for personal injury (including without limitation, sickness, disease, or death), tangible or intangible property damage, damage to the Environment, nuisance, pollution, contamination or other adverse effects on the Environment, or for fines, penalties, liens, or restrictions, resulting from or based upon:
- (X) the existence or release, or continuation of any existence or a release (including without limitation, sudden or non-sudden, accidental or non-accidental leaks or spills) of, or exposure to, any substance, chemical, material, pollutant, contaminant, or audible noise or other release or emission in, into or onto the Environment (including without limitation, the air, ground, water or any other surface or subsurface) at, in, by, from or directly related to the Complex, the Leased Property, or any part thereof, or any adjacent property or waters;
 - (Y) the environmental aspects of the transportation, storage, treatment, use, or disposal of materials in connection with the operations and activities in, on or directly associated with the Complex, the Leased Property, or any part thereof or any adjacent property or waters; or
 - (Z) the violation, or alleged violation, of any Environmental Law or Governmental Requirements relating to Environmental Requirements in, on, under or associated with the Complex, the Leased Property, or any part thereof; but excluding any of the foregoing arising solely from the negligent or intentional actions of or breach of the terms of this Lease by the City and its agents.

(vii) “Corrective Action Work” means any and all activities of removal, response, investigation, testing, analysis or remediation taken to:

- (Y) prevent, abate or correct an existing or threatened Environmental Condition at, about, affecting, or affected by the Complex, the Leased Property, or the surface or subsurface of the Leased Property and the JoePC Improvements, any part thereof; or
- (Z) comply with all applicable Governmental Requirements and Environmental Requirements.

(b) Environmental Indemnification.

- (i) JoePC covenants and agrees, at its sole cost and expense, to defend (with counsel selected by JoePC, after consulting with the City), indemnify and hold harmless the City, its successors, and assigns from and against, and shall reimburse the City, its successors and assigns, for any and all Environmental Claims, whether meritorious or not, brought against the City by any person, entity, or Governmental Authority to the extent (A) related to JoePC’s presence on the Leased Property prior to the Possession Date, (B) related to JoePC’s presence conducting environmental and other surveys, assessments and other activities on the Leased Property, and performing assessments to determine the stability, support and suitability of the properties and JoePC’s Improvements described in Sections 2.1(a), 2.2, and 2.3 to prepare for construction, (C) related to activities to develop JoePC’s Environmental Audit described in Section 8.5(a), and (D) related to JoePC’s other operations, activities, negligence, omissions to act, or violations of any Permit, Governmental Approval, or Environmental Law, or related to the surface or subsurface of the Complex, the Leased Property or the construction, maintenance, repair, restoration, renewal or operation of the Complex or the JoePC Improvements, or any part thereof arising after JoePC and the City agree to JoePC’s Environmental Audit described in Section 8.5(a);

- (ii) the foregoing indemnity includes, without limitation, indemnification against all costs of removal, response, investigation, or remediation of any kind, and disposal of such Hazardous Substances as necessary to comply with Environmental Laws, all costs associated with any Corrective Action Work, all costs associated with claims for damages to persons, property, or natural resources, any loss from diminution in the value of the Complex and the Leased Property and the City's commercially reasonable attorneys' fees and consultants' fees, court costs and expenses incurred in connection therewith;
- (iii) this Indemnification shall be interpreted as broadly as possible and is in addition to all other rights of the City under this Lease; and
- (iv) payments by JoePC under this Section shall not reduce JoePC's obligations and liabilities under any other provision of this Lease.

Notwithstanding anything to the contrary contained in Section 8.4, neither JoePC nor a general contractor, or other contractor in privity with JoePC, has a duty to indemnify or defend the City in connection with any Environmental Claims that are due to the negligent or more culpable conduct of or breach of the terms of this Lease by the City or its agents, which negligence or more culpable conduct occurs after JoePC has completed its environmental testing and following JoePC's inspection, investigation, testing, sampling, analysis, other due diligence and environmental assessments of the Leased Property as described in Article II, Section 2.3 of this Lease.

Section 8.5 Environmental Responsibilities.

- (a) JoePC's Environmental Audit. JoePC acknowledges that, prior to execution of this Lease and prior to the Possession Date, JoePC has had the opportunity to conduct whatever environmental assessments, investigations, testing, sampling, analyses, inspections and other "due diligence" which JoePC deemed appropriate to determine the environmental baseline conditions of the Leased Property ("JoePC's Environmental Audit") and JoePC has furnished to the City a copy of any written audit report. The cost and expense of the JoePC Environmental Audit shall be borne

exclusively by JoePC. The City represents that the City Manager is not aware of any Environmental Condition currently existing on the Leased Property that is not otherwise specifically disclosed on JoePC's Environmental Audit. JoePC agrees that the City shall have no remediation obligation with respect to any Environmental Condition arising during the Term of this Lease, except to the extent such Environmental Condition is caused by the City or is found to be a breach of the representation in the previous sentence.

- (b) City's Environmental Audit. At least thirty (30) days prior to the expiration or termination of this Lease, the City shall conduct an environmental assessment (the "City's Environmental Audit") of the Leased Property, utilizing third-party experts and consultants selected by the City and approved by JoePC. The City's Environmental Audit may be performed in phases and shall include such assessments, investigations, sampling, analyses, inspections and other "due diligence" testing of the Environment, and any structures on the Leased Property as may be necessary in the opinion of the expert or consultant conducting the City's Environmental Audit to determine the Environmental Condition of the Leased Property. JoePC shall permit such audit activities; provided, however, that such audit activities shall not materially interfere with JoePC's business operations at the Leased Property. The cost of the City's Environmental Audit shall be borne exclusively by the City. A copy of the written audit report shall be delivered to JoePC within thirty (30) days after the City has received the completed, written report.
- (c) Agreement to Cooperate in Audit Activities. The City and JoePC shall be permitted to have their authorized representatives or technical observers present during the other party's environmental audit activities. Either Party, directly or through designated consultants, may inspect all samples (including splitting samples for independent testing), raw data, test results, reports and opinions concerning the other Party's audit.
- (d) Duty to Report. In the event that JoePC's Environmental Audit or the City's Environmental Audit discloses conditions which must be reported to any

Governmental Authority under applicable law, and which have not already been reported, such report shall be made by the Party conducting the audit, following notice to and consultation with the other Party, and a copy of such report and all relevant documents, reports and technical data shall be provided to the other Party.

- (e) JoePC's Remediation Responsibilities. If the City's Environmental Audit reveals any noncompliance with applicable Environmental Laws or any Environmental Condition not indicated in JoePC's Environmental Audit or the City's Environmental Disclosures, JoePC shall carry out and complete, at JoePC's sole cost and expense and with all due diligence, any repair, closure, detoxification, decontamination, or any other remediation of the Leased Property required by applicable Environmental Laws. Should JoePC fail to implement promptly and diligently pursue any such remediation upon receipt of the results of the City's Environmental Audit or other notice of any Environmental Condition, then the City shall have the right, but not the obligation, to carry out such cleanup and to recover all of the costs and expenses thereof from JoePC, with interest at the Default Rate.
- (f) Environmental Compliance Responsibility. JoePC acknowledges responsibility for any and all Environmental Conditions deriving from the physical or chemical characteristics of any substance, improvement, liquid, gas, waste, and materials on the Leased Property as a result of operations at the Leased Property by JoePC, and JoePC covenants, represents, and warrants that JoePC shall not cause or, as a result of JoePC's operations, permit the Leased Property to be in violation of any Environmental Law. In the event JoePC causes or permits any contamination, including discharge, release, spillage or other introduction in or on the Leased Property or the adjacent Environment, of any Hazardous Substances or Hazardous Materials in violation of Environmental Laws, JoePC shall promptly contain, remove, remediate or mitigate the same in accordance with applicable Environmental Laws and promptly notify the City of any such contamination.
- (g) Agreement to Cooperate in Remediation Activities. JoePC and City, as the case may be, shall provide reasonable cooperation to the other, who is responsible for

any Remediation, and performing any investigation, assessment, sampling, monitoring, treatment, removal or cleanup.

ARTICLE IX
INSURANCE

Section 9.1 General Insurance Provisions. Prior to any activity on the Leased Property, and at all times during the Term, JoePC at its sole cost and expense shall procure the insurance specified below. In addition, JoePC shall ensure that its general contractor, and other contractors, and permitted Subtenants maintain the insurance coverages set forth below to the extent relevant to such party's activities at the Leased Property and hereby warrants that the same shall at all relevant times be in full force and effect. All policies must be executable in the State of Florida. All insurers must maintain an AM Best rating of A- or better. The terms and conditions of all policies may not be less restrictive than those contained in the most recent edition of the policy forms issued by the Insurance Services Office (ISO) or the National Council on Compensation Insurance (NCCI). If ISO or NCCI issues new policy forms during the policy term of the required insurance, complying with the new policy forms will be deferred until the expiration date of the subject policy. Said insurance policies shall be primary over any and all insurance available to the City whether purchased or not and shall be non-contributory. JoePC, its general contractor, other contractors, and Subtenants shall be solely responsible for all deductibles and retentions contained in their respective policies which shall be commercially reasonable. The City will be included as an "Additional Insured" on the Commercial General Liability, Umbrella Liability and Pollution Liability policies.

Section 9.2 Evidence of Insurance. Prior to JoePC taking any activity on the Leased Property, satisfactory evidence of the required insurance shall be provided to the City. Satisfactory evidence shall be either: (a) a certificate of insurance; or (b) a certified copy of the actual insurance policy (if a certificate of insurance is not provided). All insurance policies and certificates must specify they are not subject to cancellation or non-renewal without a minimum of 45 days notification to JoePC for any reason except non-payment of premium, and 10 days' notice of cancellation for

non-payment of premium. JoePC shall provide the City with a copy of any such notices within 5 Business Days of JoePC's receipt of the same.

Section 9.3 Required Coverages. As a minimum, JoePC will procure and maintain (or cause to be procured and maintained) the following coverages:

- (a) All Risk Property. JoePC shall obtain Property Coverage (Special Form), to cover the "All Other Perils" portion of the policy at the replacement cost valuation, as determined in JoePC's reasonable discretion. The perils of Windstorm, Hail and Flood shall carry a \$25,000,000 sub limit or if such sub limit is not commercially reasonable, customary, commonly available for properties similar in type, size, use and location to the Leased Property and JoePC Improvements, and is otherwise not available at commercially reasonable rates, such lower sub limit which is mutually agreed by the City and JoePC on an annual basis which is commercially reasonable, customary, commonly available for properties similar in type, size, use and location to the Leased Property and JoePC Improvements, and is otherwise available at commercially reasonable rates. To the extent available, coverage shall extend to furniture, fixtures, equipment and other personal property associated with the Leased Property. The policy shall provide an "Agreed Amount" and a "No Co-Insurance" clause as respects the Building. The policy will also provide "Law & Ordinance" coverage, while giving deference to the age of the building, with limits acceptable to both the City and JoePC.
- (b) Builders Risk – During all construction activities conducted on the Leased Property, or modifications to existing buildings or structures located thereon that impact the structural integrity of the buildings or structures, JoePC shall obtain Builders Risk insurance (to include the perils of wind and flood) with minimum limits equal to the "Completed Value" of the buildings or structures being erected or the total value of the modifications being made. The perils of Windstorm, Hail and Flood shall carry a \$25,000,000 sub limit or such lower sublimit as may be required by the applicable construction contract for the buildings or structures being erected or modified.

- (c) Business Interruption - During the term of this Lease, JoePC shall maintain Business Interruption coverage utilizing a Gross Earnings Value form with limits equal to twelve (12) months of JoePC's projected profits (including all rental income) associated with the Leased Property.
- (d) Commercial General Liability – During the term of the Lease, JoePC shall maintain, or cause general contractor (during all construction activities) or the Hotel management company and Restaurant management company (when the Complex is in operation) to maintain, Commercial General Liability Insurance. Such policies will include JoePC as an additional Named Insured and the City as additional Named Insured. Coverage shall include, as a minimum: (i) Premises Operations, (ii) Products and Completed Operations, (iii) Blanket Contractual Liability, (iv) Personal Injury Liability and (v) Expanded Definition of Property Damage. The minimum limits acceptable shall be \$10,000,000 Combined Single Limit (CSL). The use of an excess/umbrella liability policy to achieve the limits required by this paragraph will be acceptable as long as the terms and conditions of the excess/umbrella policy are no less restrictive than the underlying Commercial General Liability policy.
- (e) Business Automobile Liability – During the term of the Lease, JoePC shall maintain Business Automobile Liability Insurance with coverage extending to all Owned, Non-Owned and Hired autos. The minimum limits acceptable shall be \$2,000,000 Combined Single Limit (CSL). The use of an excess/umbrella liability policy to achieve the limits required by this paragraph will be acceptable as long as the terms and conditions of the excess/umbrella policy are no less restrictive than the underlying Business Automobile Liability policy.
- (f) Workers' Compensation and Employers Liability – JoePC shall maintain Workers' Compensation Insurance, or if not applicable, cause general contractor (during all construction activities) or the Hotel management company and Restaurant management company (when the Complex is in operation) to maintain, with limits sufficient to respond to Florida Statute §440. In addition, the JoePC shall obtain Employers' Liability Insurance with limits of not less than: (i) \$500,000 Bodily

Injury by Accident, (ii) \$500,000 Bodily Injury by Disease and (iii) \$500,000 Bodily Injury by Disease, each employee.

- (g) Professional Liability – Prior to commencing any construction activities on the Leased Property, or any other construction activities, including without limitation, the Work, JoePC shall cause any architects or engineers to maintain Architects and Engineers Errors and Omissions Liability insurance specific to the construction activities shall be obtained. If coverage is provided on a “Claims Made” basis, the policy shall provide for the reporting of claims for a period of two (2) years following the completion of all construction activities. The minimum limits acceptable shall be \$1,000,000 per occurrence and \$3,000,000 in the annual aggregate.
- (h) Pollution Liability. Site pollution liability insurance and contractors not less than Five Million Dollars (\$5,000,000), combined single limit, for any one occurrence, covering operations of JoePC for on-site and off-site bodily injury and property damage, water pollution, groundwater pollution, air pollution, clean-up costs, evacuation and loss of use, and the loading and unloading operations.

Section 9.4 Premiums and Renewals. JoePC shall pay as the same become due all premiums for the insurance required to be maintained by JoePC by this Article IX, and shall renew or replace each such policy. Upon request by the City, for each such renewal or replacement policy, JoePC shall deliver to the City a certificate of insurance for such policy or a certified copy of the respective policy (if a certificate is not provided).

Section 9.5 Adequacy Of Insurance Coverage.

- (a) The adequacy of the insurance coverage required by this Article IX may be reviewed periodically by the City in its sole discretion. The City may request a change in the insurance coverage if it is commercially reasonable, customary and commonly available regarding properties similar in type, size, use and location to the Leased Property and JoePC Improvements provided that such coverage is

available at commercially reasonable rates (including without limitation, fiduciary liability and directors and officers liability insurance);

- (b) JoePC has the right to contest the request for a change in insurance, but must be commercially reasonable; and
- (c) JoePC agrees that City may, if it so elects, have the JoePC Improvements appraised, at the City's sole cost and expense, for purposes of obtaining the proper amount of insurance hereunder. Any review by the City shall not constitute an approval or acceptance of the amount of insurance coverage.

Section 9.6 City May Procure Insurance if JoePC Fails To Do So. If JoePC refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Lease, the City, at its option, may procure or renew such insurance. In that event, all commercially reasonable amounts of money paid therefor by the City shall be treated as Additional Rent payable by JoePC to the City together with interest thereon at the Default Rate from the date the same were paid by the City to the date of payment thereof by JoePC. Such amounts, together with all interest accrued thereon, shall be paid by JoePC to the City within ten (10) days of written notice thereof.

Section 9.7 Effect of Loss or Damage. Any loss or damage by fire or other casualty of or to any of JoePC Improvements on the Leased Property at any time shall not operate to terminate this Lease or to relieve or discharge JoePC from the payment of Rent, or from the payment of any money to be treated as Additional Rent in respect thereto, pursuant to this Lease, as the same may become due and payable, as provided in this Lease, or from the performance and fulfillment of any of JoePC's obligations pursuant to this Lease. No acceptance or approval of any insurance agreement or agreements by the City shall relieve or release or be construed to relieve or release JoePC from any liability, duty or obligation assumed by, or imposed upon it by the provisions of this Lease.

Section 9.8 Notice of Loss. JoePC shall give City written notice as soon as reasonably practicable of any material damage or destruction of the JoePC Improvements. For purposes of this Section,

“material damage or destruction” shall mean any casualty or other loss the commercially reasonable cost of which to repair is in excess of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000) or, notwithstanding a lesser cost of repair, will have a materially adverse effect on the day to day operations of the Complex or any part of it.

Section 9.9 Insurance Proceeds.

- (a) Authorized Payment. All sums payable for loss and damage arising out of the casualties covered by the property insurance policies shall be payable directly to JoePC, subject to its obligations to the Lender, unless the cost of the Reconstruction Work (as defined below) exceeds fifty percent (50%) of the Certified Cost of JoePC Improvements (as adjusted for inflation over the Term pursuant to Section 3.21) in which case \$1,000,000 shall be held in escrow by the Insurance Trustee pending (i) JoePC’s completion of the Restoration Work in accordance with Section 9.10(a) or (ii) JoePC’s clearing of the Leased Property in accordance with Section 9.10(b), at which time such amount shall be paid to JoePC. If at the time any such proceeds become payable there is a Leasehold Mortgage, the Lender having the highest lien priority shall serve as the Insurance Trustee, but if there is no Leasehold Mortgage at that time, or if the Lender refuses to serve as Insurance Trustee, the Insurance Trustee shall be such commercial bank or trust company as shall be designated by JoePC and approved by the City, which approval shall not be unreasonably withheld or delayed (the “Insurance Trustee”).
- (b) Application of Insurance Proceeds for Reconstruction. JoePC shall first apply all insurance proceeds for the reconstruction, repair or replacement of JoePC Improvements and the personal property of JoePC contained therein, so that JoePC Improvements or such personal property, or both, shall be restored to a condition comparable to the condition prior to the loss or damage (hereinafter referred to as “Reconstruction Work”), unless JoePC shall be entitled to elect, and timely elects, to clear and return the Leased Property to the City and terminate this Lease in strict compliance with Section 9.10, in which case the insurance

proceeds shall be applied for the cost of clearing and dressing the Leased Property and the remainder, if any, retained by JoePC.

Section 9.10 Covenant for Commencement and Completion of Reconstruction and Alternative.

- (a) Except as provided in Subsection (b) below, JoePC covenants and agrees to commence the Reconstruction Work as soon as practicable, but in any event to use commercially reasonable efforts to complete plans for the Reconstruction Work within four (4) months after the loss or casualty event and commence Reconstruction Work within three (3) months after insurance proceeds in respect of the destroyed or damaged improvements or personally have been received or in any event regardless of insurance within twelve (12) months after the loss or casualty event, and to fully complete such Reconstruction Work as diligently and expeditiously as possible consistent with the nature and extent of the damage and the availability of resources and professionals to complete such Reconstruction Work at then commercially reasonable rates. JoePC shall comply in all respects with the provisions of Section 3.13 with respect to any Reconstruction Work.
- (b) In the event the cost of the Reconstruction Work exceeds fifty percent (50%) of the Certified Cost of JoePC Improvements (as adjusted for inflation over the Term pursuant to Section 3.21), within the twelve (12) month period after any loss or casualty event and regardless of insurance, JoePC shall have the option of demolishing and removing all vertical improvements and fixtures (including surface and subsurface slabs and foundations) not desired by the City from the Leased Property, returning possession of the Leased Property to the City in a level, empty, neat, clean, safe, and vacant condition, free of any claims of lien or encumbrance resulting from any act or omission of JoePC, terminating this Lease, and retaining the remainder of any insurance proceeds subject to whatever rights may be held by the holder of a Leasehold Mortgage.

Section 9.11 Waiver of Subrogation. A full waiver of subrogation shall be obtained from all insurance carriers. JoePC shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the City in connection with any damage covered by any policy.

Section 9.12 Inadequacy of Insurance Proceeds. JoePC's liability hereunder to timely commence and complete restoration of the damaged or destroyed JoePC Improvements shall be absolute, irrespective of whether the insurance proceeds received, if any, are adequate to pay for said restoration, subject to JoePC's rights under Section 9.10(b).

ARTICLE X

CONDEMNATION

Section 10.1 Complete Condemnation.

- (a) If the entire Complex shall be taken or condemned for any public or quasi-public use or purpose, by right of eminent domain or by purchase in lieu thereof (in each case, a "Taking"), or if such Taking shall be for a portion of the Complex such that the portion remaining is not sufficient and suitable, on a commercially reasonable basis for the operation of the Complex, then this Lease shall cease and terminate as of the date on which the condemning authority takes possession; and
- (b) If this Lease is so terminated, the entire award for the Complex or the portion thereof so taken shall be apportioned among the City and JoePC as of the day immediately prior to the vesting of title in the condemnor, as follows:
 - (i) First, but only if the City is not the authority condemning the Complex, the City shall receive the then fair market value of the Leased Property so taken or condemned considered as vacant, unimproved, and unencumbered, together with the value of the JoePC Improvements, discounted as if the Taking occurred at the end of the Term;
 - (ii) Second, JoePC shall be entitled to the then fair market value of its interest under this Lease and in the JoePC Improvements together with any and all

business damages suffered by JoePC (subject, however, to the rights of any Lender); and

- (iii) Last, the City and JoePC shall each receive one-half (1/2) of any remaining balance of the award, except that the JoePC shall receive the entire remaining balance of the award if the City is the authority condemning the Complex.

Section 10.2 Partial Condemnation.

- (a) If there is a Taking of a portion of the Complex, and the remaining portion can, on a commercially reasonable basis be adapted and used to operate the Complex in substantially the same manner it was previously operated, then this Lease shall continue in full force and effect; and
- (b) In such event, the award shall be apportioned as follows:
 - (i) First, to JoePC to the extent required, pursuant to the terms of this Lease, for the restoration of the Complex;
 - (ii) Second, but only if the City is not the authority condemning the Complex, to the City the portion of the award allocated to the fair market value of the Leased Property which is so taken, considered as vacant and unimproved;
 - (iii) Third, to JoePC the amount by which the value of JoePC's interest in the JoePC Improvements and the Leased Property were diminished by the taking or condemnation; and
 - (iv) Last, the City and JoePC shall each receive one-half (1/2) of any remaining balance of the award, except that the JoePC shall receive the entire remaining balance of the award if the City is the authority condemning the Complex.

Section 10.3 Restoration After Condemnation. If this Lease does not terminate due to a Taking, then:

- (a) JoePC shall promptly commence and diligently pursue to completion restoration of the remaining portion of the Complex in accordance with the provisions of Sections 9.10 hereof;

- (b) the entire proceeds of the award shall be deposited and treated in the same manner as insurance proceeds are to be treated under Article IX until the restoration has been completed and JoePC and the City have received their respective shares thereof pursuant to this Article X; and
- (c) if the award is insufficient to pay for the restoration, JoePC shall be responsible for the remaining cost and expense.

Section 10.4 Temporary Taking. If there is a Taking of the temporary use (but not title) of the Complex, or any part thereof, this Lease shall, but only to the extent it is commercially reasonable, remain in full force and effect and there shall be no abatement of any amount or sum payable by or other obligation of JoePC hereunder. JoePC shall receive the entire award for any such temporary Taking to the extent it applies to the period prior to the end of the Term (subject to the rights of a Lender) and the City shall receive the balance of the award.

Section 10.5 Determinations. If the City and JoePC cannot agree in respect of any matters to be determined under this Article, a determination shall be requested of the court having jurisdiction over the Taking and, to the extent not reimbursed by the condemnor each party shall bear their own attorneys' fees and expert costs incurred with respect to the determination. If the City is the condemnor, JoePC shall refrain, and waives, attorneys' fees and expert costs for seeking this determination and shall indemnify the City for the same. For purposes of this Article, any personal property taken or condemned shall be deemed to be a part of the JoePC Improvements, and the provisions hereof shall be applicable thereto.

Section 10.6 Payment of Fees and Costs. Except as provided in Section 10.5, all fees and costs incurred in connection with any condemnation proceeding described in Article X shall be paid in accordance with the law governing same, as determined by the court, if appropriate.

ARTICLE XI
QUIET ENJOYMENT AND OWNERSHIP OF IMPROVEMENTS

Section 11.1 Quiet Enjoyment and Liabilities.

- (a) The City represents and warrants that JoePC, upon paying the Rent, Additional Rent and other monetary obligations pursuant to this Lease and observing and keeping each and every of the covenants and agreements of this Lease on its part to be kept and performed, shall lawfully and quietly hold, occupy and enjoy the Leased Property during the Term without hindrance or molestation by the City or by any person or persons claiming under the City. The City shall, at its own cost and expense, through the City Attorney's office or other counsel selected by the City in its sole discretion, defend any suits or actions which may be brought upon any such claims.
- (b) Except for negligent or more culpable acts or omissions by the City in its proprietary or governmental capacity or breach of its obligations in this Lease, in no event shall the City be liable for, and JoePC hereby expressly waives, any claim for damages of any kind whatsoever associated with the subjects of this Lease, including without limitation, damages for loss of income, revenue, profit or value, and whether such damages are compensatory, consequential, punitive or exemplary. Any liability of the City under this Lease shall only be to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, as may be amended, which statutory limitations shall be applied as if the parties had not entered into this Lease.

Section 11.2 Waste. Without limiting or lessening by implication or otherwise any more specific provisions of this Lease, JoePC shall not permit, commit or suffer waste or impairment of the Leased Property, the Complex, or any part thereof.

Section 11.3 Maintenance and Operation of Improvements. JoePC shall at all times keep the Complex, the Leased Property, and all parts thereof in Good Condition and Repair and in compliance with the Industry Standards.

Section 11.4 Ownership of Improvements During Lease. Prior to the expiration or termination of this Lease, title to the JoePC Improvements shall not vest in the City by reason of its ownership of fee simple title to the Leased Property, but title to the JoePC Improvements shall remain in JoePC.

Section 11.5 Surrender of Leased Property.

- (a) Upon the expiration of the Term, or earlier termination of this Lease if mutually agreed upon or determined by a final order from a court with jurisdiction from which the time for appeal has expired, title to JoePC Improvements which for this purpose shall include all fixtures and personal property or equipment furnished or installed in or associated with the Complex and owned or leased by JoePC, which shall be free and clear of all debts, mortgages, encumbrances, liens, and violations of any Governmental Approvals or Environmental Permits, in any material respect, shall automatically pass to, vest in and belong to the City or its successor in ownership and it shall be lawful for the City or its successor in ownership to re-enter and repossess the Complex, the Leased Property and JoePC Improvements without process of law; and

- (b) Subject to Section 9.10(b), upon the expiration of the Term, or earlier termination if mutually agreed upon or determined by an final order from a court with jurisdiction from which the time for appeal has expired, JoePC shall leave the Leased Premises and the JoePC Improvements which for this purpose shall include all fixtures and personal property or equipment furnished or installed in or associated with the Complex and owned or leased by JoePC, in the state of repair and cleanliness required to be maintained by it during the term of this Lease and shall peaceably surrender the same to the City in full working order, repair and in

compliance with all Governmental Approvals, Governmental Requirements, and Environmental Permits.

- (c) The City and JoePC covenant that, to confirm the automatic vesting of title as provided in this Section, each will execute and deliver such further assurances and instruments of assignment and conveyance as may be reasonably required by the other for that purpose, including Governmental Approvals and Environmental Permits in all material respects.
- (d) JoePC warrants and agrees that upon the expiration of the Term, or earlier termination of this Lease if mutually agreed upon or determined by a final order from a court with jurisdiction from which the time for appeal has expired, title to JoePC Improvements, which for this purpose shall include all fixtures and personal property or equipment furnished or installed in or associated with the Complex and owned or leased by JoePC, shall be free and clear of all debts, mortgages, encumbrances, liens, and violations of any Governmental Approvals or Environmental Permits, in any material respect.
- (e) Notwithstanding the forgoing, in the event JoePC is entitled to elect, elects, and executes the alternative specified in Section 9.10(b), it is understood that there will be no JoePC Improvements on the Leased Property.

Section 11.6 City and JoePC to Join in Certain Actions. Within thirty (30) days after receiving a written request from JoePC, the City shall join JoePC when required by law in any and all applications for Governmental Approvals as may be commercially reasonably necessary for any improvements to the Leased Property. JoePC shall pay all fees and charges for all such applications.

ARTICLE XII
MAINTENANCE AND MANAGEMENT

Section 12.1 Good Condition and Repair.

- (a) The City and JoePC agree that the way in which the JoePC Improvements and the Leased Property are developed, operated and maintained is critically important to the citizens of the City by reason of their interest in having the Complex used by City residents and visitors alike, to compliment the water dependent uses of the Marina Property, and to encourage and permanently sustain private investment in the revitalization of the remainder of the Marina and all Downtown. Therefore, JoePC hereby agrees to develop, operate and maintain the Leased Property and the JoePC Improvements and all other property, equipment, landscaping, street furniture, sidewalks, vehicle access and parking areas, and all other things visible to the public located thereon or therein, always in a well maintained, clean, neat, orderly, safe, fresh, attractive and inviting appearance (“Good Condition and Repair”) so that at all times during Term, and at the termination of this Lease by lapse of time or otherwise when the City shall receive the JoePC Improvements (subject to Section 9.10(b)), the JoePC Improvements and all the other things described above shall be in Good Condition and Repair regardless of whether the necessity or desirability of maintenance, repair, renewal, replacement, or other work shall arise by virtue of wear, tear, age, obsolescence, or defect. These covenants are cumulative to the Hotel Standards and Restaurant Standards, although it shall be rebuttably presumed that Good Condition and Repair for the Hotel and Restaurant is achieved by JoePC meeting those standards.
- (b) The City and JoePC also agree that the way the City operates and maintains property owned or controlled by it Downtown is critically important to the financial success of the Complex. Therefore, subject always to its governmental and legislative authority and discretion in fiscal matters, the City agrees to operate and maintain property owned or controlled by it Downtown and which is visible to the

public, especially on and adjacent to the Marina, as nearly as may be practicable to the standards required and maintained by JoePC for the Leased Property.

Section 12.2 Industry Standards.

- (a) JoePC covenants and agrees that it shall operate and maintain the Hotel and that portion of the Leased Property associated with the Hotel in full compliance with the substance and through the process set forth in the Hotel Standards, with the Trademark License Agreement (or the Independent License Agreement), and with Governmental Requirements;
- (b) JoePC covenants and agrees that it shall operate and maintain the Restaurant and that portion of the Leased Property associated with the Restaurant in full compliance with the substance and through the process set forth in the Restaurant Standards and with Governmental Requirements; and
- (c) JoePC shall not conduct any commercial operations in the Complex, or on the Leased Property, whether conducted by JoePC, an Affiliate of JoePC or a Subtenant, involving any noisy, brightly illuminated, dangerous or obnoxious activities or items of personal property, or the rental or use of vehicles or items of personal property to be used in the City and which in sufficient numbers or frequency of use are noisy, dangerous, distracting, or obnoxious

(Collectively herein the “Industry Standards”).

Section 12.3 Intentionally Omitted.

Section 12.4 FF&E Reserve – Independent License Agreement or Permitted Transfer.

- (a) To implement the standards expected for maintenance, repair, renewal and replacements required by this Lease, at all times when JoePC is not operating the Hotel under a Trademark License Agreement, JoePC shall establish and maintain a separate interest-bearing account to be known as the “FF&E Reserve Account.” For each Rental Year during which at any time JoePC did not operate the Hotel under a Trademark License Agreement, by December 15th of the next following Rental Year JoePC shall deposit into

the FF&E Reserve Account an amount equal to the percentage of total, combined Hotel Revenue and Restaurant Revenue for the immediately preceding Rental Year as set forth in the following schedule (including interest thereon, the “FF&E Reserve”):

- (i) First annual deposit – one percent (1%).
- (ii) Second annual deposit – two percent (2%)
- (iii) Third annual deposit and each year thereafter – three percent (3%).

(b) All amounts remaining in the FF&E Reserve Account at the close of each Rental Year shall be carried forward and retained until fully used as herein provided.

(c) The FF&E Reserve shall be used by JoePC exclusively for the repair, renewal, replacement, and additions (but not routine maintenance) of fixtures, furnishings, and equipment required for the operation of the Complex in accordance with the terms of this Lease from and after the opening date and to address issues as might arise from inspections of the Hotel or Restaurant as set forth in the Hotel Standards and the Restaurant Standards.

(d) Within one hundred twenty (120) days after the end of each year, JoePC shall provide the City with a written statement of the balance in the FF&E Reserve Account and the amount and nature expenditures from the FF&E Reserve since the prior, annual statement.

(e) JoePC grants the City a security interest in the FF&E Reserve to secure JoePC’s obligations under this Lease. JoePC shall not grant a security interest in the FF&E Reserve to any other person excepting a Leasehold Mortgagee in compliance with Article VI to whose interests the City agrees to subordinate its lien on the FF&E Reserve.

(f) JoePC agrees that these provisions, obligations and best practices are intended to retain and maintain at least the asset value and public, economic benefit of the JoePC Improvements and standard of quality created in the Hotel and Restaurant at the outset of this Lease.

(g) In addition, commencing with any Permitted Transfer of (i) this Lease and the entire Complex, or (ii) the Total Hotel, or (iii) the Total Restaurant to either an Acceptable Tenant or a Default Tenant, and continuing for the remainder of the Term, the Transferee and all subsequent, successor Permitted Transferees shall comply with this section with

respect to the portion (that is all of this Lease, or the Total Hotel, or the Total Restaurant) of this Lease Transferred.

Section 12.5 Renewal of FF&E. JoePC may at any time and from time to time elect to remove and dispose of any of the fixtures, furnishings, and equipment which have become obsolete or unfit for use or which are no longer useful in the operation of the Complex if the fixtures, furnishings, and equipment so removed shall be promptly replaced with other, related fixtures, furnishings, and equipment required, useful, or convenient to enable JoePC to operate the Complex as well or better than before removal and make the Complex as or more attractive to the public than before the removal.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 13.1 No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Lease is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners, or creating or establishing the relationship of a joint venture between the City and JoePC, or as constituting JoePC as the agent or representative of the City for any purpose or in any manner whatsoever.

Section 13.2 Recording, Documentary Stamps. This Lease, or a memorandum of this Lease in form mutually satisfactory to the parties, may be recorded by either party among the Public Records of Bay County, Florida and the cost of any such recordation, the cost of any documentary stamps which legally must be attached to any or all of said documents shall be paid in equal parts by JoePC and the City. The parties shall cooperate in structuring the transactions contemplated hereby in such a manner as to reduce such costs, provided such structure shall not have any adverse consequence for the City.

Section 13.3 Florida and Local Laws Prevail; Venue.

- a) This Lease shall be governed by the laws of the State of Florida. This Lease is subject to and shall comply with the Charter of the City as the same is in existence as of the execution of this Lease and the ordinances now existing or hereafter adopted by the City. Any conflicts between this Lease and the City Charter and ordinances shall be resolved in favor of the latter; provided, that such provision of the City Charter or ordinance was not adopted with the intent to change a provision of this Lease. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstances shall to any extent, be illegal, invalid, or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity or becomes unenforceable because of judicial construction, the remaining terms, covenants and conditions of this Lease, or application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.
- b) Exclusive jurisdiction and venue to try any issue arising under or associated with this Lease shall be in the 14th Judicial Circuit, in and for Bay County, Florida, and all other jurisdictions and venues are waived to the fullest extent permitted by law.

Section 13.4 Conflicts of Interest: City Representatives not Individually Liable. No member, official, representative, or employee of the City shall have any personal interest, direct or indirect, in this Lease, nor shall any such member, official, representative or employee participate in any decision relating to this Lease which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. No member, official, elected representative or employee of the City shall be personally liable to JoePC or any successor in interest in the event of any default or breach by the City or for any amount which may become due to JoePC or successor or on any obligations under the terms of the Lease.

Section 13.5 Notice. A notice or communication, under this Lease by the City, on the one hand, to JoePC, or, on the other, by JoePC to the City shall be sufficiently given or delivered if dispatched by hand delivery, or by nationally recognized overnight courier providing receipts, or by registered or certified mail, postage prepaid, return receipt requested to:

AS TO THE CITY: City Hall
501 Harrison Avenue
Panama City, FL 32401
Attn: City Manager

WITH A COPY TO: Burke Blue
221 McKenzie Avenue
Panama City, FL 32401
Attn: Nevin Zimmerman, City Attorney

AS TO JOEPC: 130 Richard Jackson Blvd., Suite 200
Panama City Beach, FL 32407
Attn: Patrick Murphy, SVP - Operations

WITH A COPY TO: 130 Richard Jackson Blvd., Suite 200
Panama City Beach, FL 32407
Attn: Elizabeth J. Walters, its General Counsel

or if such notice is addressed in such other way in respect to any of the foregoing parties as that party may, from time to time, designate in writing, dispatched as provided in this Section 13.5.

Section 13.6 Estoppel Certificates. The City and JoePC shall, within thirty (30) days after written request by the other, execute, acknowledge and deliver to the party which has requested the same or to any actual or prospective Lender, a certificate stating that:

- (a) this Lease is in full force and effect and has not been modified, supplemented or amended in any way, or, if there have been modifications, the Lease is in full force and effect as modified, identifying such modification agreement, and if the Lease is not in force and effect, the certificate shall so state;
- (b) this Lease as modified represents the entire agreement between the parties as to this subject matter, or, if it does not, the certificate shall so state;
- (c) the dates on which the Term of this Lease commenced and will terminate;
- (d) to the knowledge of the certifying party all conditions under the Lease to be performed up to that date by the City or JoePC, as the case may be, have been performed or satisfied and, as of the date of such certificate, there are no existing defaults, defenses or offsets which the City or JoePC, as the case may be, has against the enforcement of the Lease by the other party, or, if such conditions have not been satisfied or if there are any defaults, defenses or offsets, the certificate shall so state;
- (e) to the knowledge of the certifying party there exist no circumstance which, with the passing of time or the giving of notice or both, would constitute a breach or Event of Default under this Lease; and
- (f) the Rent due and payable for the year in which such certificate is delivered has been paid in full, or, if it has not been paid, the certificate shall so state.

The party to whom any such certificate shall be issued may rely on the matters therein set forth; however, in delivering such certificate neither JoePC nor the City (nor any individual signing such certificate on such party's behalf) shall be liable for the accuracy of the statements made therein, but rather the City or JoePC, as applicable, shall be estopped from denying the veracity or accuracy of the same. Any certificate required to be made by the City or JoePC pursuant to this paragraph shall be deemed to have been made by the City or JoePC (as the case may be) and not by the person signing same.

Section 13.7 Intentionally Omitted.

Section 13.8 Titles of Articles and Sections. Any titles of the several parts, Articles and Sections of this Lease are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 13.9 Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original. Any such counterparts shall constitute one and the same instrument. This Lease shall become effective only upon execution and delivery of this Lease by the parties hereto.

Section 13.10 Successors and Assigns. Except as to JoePC's Right of First Use contained in Article XV and to the extent limited elsewhere in this Lease, all of the covenants, conditions, and obligations contained in this Lease shall be binding upon and inure to the benefit of initial or successor Permitted Transferees. All of the covenants, conditions, and obligations contained in this Lease shall be binding upon and inure to the benefit of the successors and assigns of the City.

Section 13.11 Entire Agreement. This Lease and its Exhibits constitute the sole and only agreement of the parties hereto with respect to the subject matter hereof and correctly set forth the rights, duties, and obligations of each to the other as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Lease are of no force or effect and are merged into this Lease.

Section 13.12 Amendments. No amendments to this Lease shall be binding on either party unless in writing and signed by both parties.

Section 13.13 Non-Subordination of City's Interest. Except as specifically provided in Article VI, the City's fee interest in and ownership of the Leased Property and the City's rights and interest in this Lease (including without limitation, the rights to Rents, additional Rents, Public Charges and other monetary obligations of JoePC to the City under this Lease) shall not be subject or subordinate to or encumbered by any financing for the Complex or lien or encumbrances affecting JoePC's interest in this Lease or JoePC's Improvements or by any acts

or omissions of JoePC or any sublessee hereunder. In this regard, the Rents, additional Rents and other monetary obligations of JoePC to the City under this Lease then payable at any point in time during the Term shall be paid by JoePC to the City and shall be superior in right to all claims or rights hereunder or described above in this Section including without limitation, all Complex operating expenses, the payment of debt service, and any distributions of profits to JoePC or any of its Affiliates or owners.

Section 13.14 Authorization and Approvals by the City and JoePC.

All requests for action, approval or consent by the City shall be sent to the City Manager with a copy to the City Attorney for decision as to who within the City, including the City Commission, must act or approve the matter on behalf of the City. Pursuant to the Charter of the City establishing the City Manager form of government for the City and other applicable law including its inherent, home rule authority, the Governing Body hereby designates and delegates to the City Manager to the fullest extent permitted by law the authority alone to decide and act upon all requests from JoePC for action, approval or consent required, permitted or convenient under this Lease. JoePC shall be entitled to rely upon the opinion of the City Attorney that the City's response is authorized and binding for all purposes associated with this Lease. Nothing herein shall preclude the City Manager, in his or her discretion, from referring to the Governing Body any request from St. Joe. Conversely, JoePC shall be entitled to seek reconsideration by the Governing Body of the City Manager's denial, in whole or in part, of any request by filing with the City Clerk within ten (10) business days after receipt of the denial a request for reconsideration containing the request and the City Manager's response and any additional information it may desire. Finally, nothing herein shall preclude JoePC from submitting any such request directly to the Governing Body who shall then, in its discretion, determine how the request should be handled.

Section 13.15 Prevailing Party's Attorneys' Fees. Except where expressly stated otherwise in this Lease, in the event either party shall institute legal proceedings in connection with, or for the enforcement of, this Lease, the prevailing party shall be entitled to recover its costs of suit, including without limitation, commercially reasonable attorneys' fees, at both trial and appellate levels.

Section 13.16 Holidays. It is hereby agreed that whenever a notice or performance under the terms of this Lease is to be made or given on a Saturday or Sunday or on a legal holiday recognized by the City, it shall be postponed to the next following business day, not a Saturday, Sunday or legal holiday.

Section 13.17 No Brokers. Each party represents and warrants to the other that no real estate broker or other person was involved in the procurement of this lease for a fee or other consideration. JoePC shall be responsible for, and shall hold the City harmless with respect to, the payment of any commission claimed by or owed to any real estate broker or other person retained by JoePC and which is entitled to a commission as a result of the execution and delivery of this Lease. The City similarly shall be responsible for, and shall hold JoePC harmless with respect to, the payment of any commission claimed by or owed to any real estate broker or other person retained by the City and which is entitled to a commission as a result of the execution and delivery of this Lease.

Section 13.18 No Liability for Approvals and Inspections. No approval to be made by the City in its proprietary capacity as landlord under this Lease, or any inspection of the Work or the Complex by the City in its governmental capacity under applicable building, life safety, or other codes, laws and regulations, shall render the City liable for its failure to discover any defects or nonconformance with any Governmental Requirement, or prevent the City from enforcing a Government Requirement.

Section 13.19 Radon. 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 the county public health unit for Bay County. JoePC shall be solely responsible for all testing, monitoring, abatement, removal, and control of radon and adverse Environmental Condition due

to, arising from, or related in any way to the presence or accumulation of radon in and on the Complex, the Leased Property, the Hotel, the Restaurant, and any building on the Leased Property.

Section 13.20 JoePC Entity. JoePC represents, warrants and covenants that (a) it is and will remain a Florida limited liability company whose sole member and owner is JOE QOZ FUND, INC., a Florida corporation, whose sole member and owner is St. Joe; (b) it is ultimately and exclusively controlled by St. Joe; and (c) it is and will remain organized as a perpetual, Single Purpose Entity. JoePC agrees that during the Term of this Lease it will not take, permit or assist in any action that results in JoePC not being controlled by St. Joe because the City's willingness to enter this Lease is completely dependent upon St. Joe's reputation, resources, local holdings and commitments, and experience.

Section 13.21 Inflation Adjustments. All adjustments for inflation required under this Lease shall be calculated utilizing the United States Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers; U.S. City average (1982-84=100). If the United States Department of Labor should no longer compile and publish this index, the most similar index compiled and published by said Department or any other branch or department of the federal government shall be used for the purpose of computing the inflation adjustments provided for in this Lease. If no such index is compiled or published by any branch or department of the federal government, the statistics reflecting cost of living increases as compiled by any institution or organization or individual designated by the City and generally recognized as an authority by financial or insurance institutions shall be used as a basis for such adjustments.

Section 13.22 Standard of Conduct. The implied covenant of good faith and fair dealing under Florida law is expressly adopted.

ARTICLE XIV
LEASE EXTENSION
And
CITY OPTION TO PURCHASE

Section 14.1. Extension of the Term.

- (a) **Intent.** The City recognizes that JoePC will be re-investing capital into the Complex throughout the Term to meet its obligations during the Term to operate and maintain the Hotel and Restaurant in compliance with the Hotel Standards, the Restaurant Standards, and the Governmental Requirements, as appropriate, and that such re-investment of capital will provide economic and social benefits to Downtown and the citizens of the City. The City acknowledges that in return for such a necessary and ongoing investment, JoePC may desire an extension of the original sixty (60) year Term. In consideration of JoePC entering this lease and building the Hotel and Restaurant the City desires to give JoePC the option to request, and in the City's discretion receive from the City, an extension to the Term for such period and on such terms as the City and JoePC may mutually agree.
- (b) If JoePC desires to extend the Term, it may deliver written notice to the City no sooner than three (3) nor less than two (2) years prior to the end of the original Term stating that it is prepared, willing and able to extend the original Term for a specified period of time and on the terms set forth in such notice (the "Extension Offer"). Once given, JoePC may not withdraw its Extension Offer without the City's written consent. If the Extension Offer is accepted by the City, the Term shall be extended as set forth in the Extension Offer.
- (c) The City in its sole discretion shall formally accept or reject the Extension Offer within one-hundred-eighty (180) days from and after its receipt. Failure to accept or reject during that period shall be conclusively deemed a rejection.
- (d) Provided that no JoePC Event of Default shall be continuing, during all but the last two (2) years of the original Term and in addition for so long the City is in receipt

of a timely delivered and unrejected Extension Offer, the City shall make no agreement with a third party which would preclude or impair its ability to grant JoePC an extension to the original Term.

Section 14.2. City Option to Purchase Lease.

- (a) The City reserves the option to purchase back from JoePC this Lease and the JoePC Improvements which for this purpose shall include all fixtures and personal property or equipment furnished or installed in or associated with the Complex and owned or leased by JoePC, which shall be free and clear of all debts, mortgages, encumbrances, liens, and violations of any Governmental Approvals or Environmental Permits, in any material respect, all at the times and upon the terms following.
- (b) This option may be exercised by the City's delivery of written notice of exercise to JoePC under any of the circumstances and times listed below specifying a closing date during the respective period listed.
 - (i) At any time after four (4) months have passed following (1) the filing of an action to foreclose any Leasehold Mortgage, or other proceeding in the nature thereof, or (2) the filing of a voluntary or involuntary bankruptcy by or against JoePC, or other proceeding or assignment in the nature thereof, which foreclosure action, bankruptcy, proceeding, or assignment is not dismissed or dissolved within that four (4) month period, specifying a closing date that is no more than sixty (60) days after the delivery of the notice.
 - (ii) At any time after entry of a final judgment foreclosing any interest of JoePC in this Lease without option of further appeal as of right, but no later than five o'clock PM (5:00 PM) local time on the third (3d) Business Day after sale at the foreclosure auction, specifying a closing date that is no less than thirty (30) or more than sixty (60) days after the delivery of the notice.
 - (iii) At any time within 60 days after a Default Tenant has accepted a deed in lieu of foreclosure permitted under this Lease and given the City written

notice of that Transfer, specifying a closing date that is not less than sixty (60) or more than ninety (90) days after the delivery of the notice.

(iv) At any time after ten (10) years have passed following a Permitted Transfer of this Lease to an Acceptable Tenant or to a Default Tenant, specifying a closing date that is not less than six (6) or more than nine (9) months after the delivery of the notice; provided, that, the City shall not exercise its option pursuant to this Section 14(b)(iv) unless such action has been approved by not less than four of the five members of the City Commission.

(v) At any time after the first consecutive thirty (30) Rental Years have passed and there has been a Permitted Transfer to an Acceptable Tenant or to a Default Tenant, specifying a date that is no less than six (6) or more than nine (9) months after the delivery of the notice.

(c) The purchase price shall be paid at closing in readily available funds.

(d) If the parties cannot agree upon a purchase price, the purchase price shall be equal to the greater of (i) the appraised value of the leasehold as of the date the City gives notice of intent to purchase determined as agreed in Section 14.3 (the "Appraised Value"), or (ii) the sum of any outstanding, non-delinquent principal and interest thereon secured by a Leasehold Mortgage permitted by this Lease plus the Appraised Value but not exceeding one-hundred-ten percent (110%) of the Appraised Value; provided, that, if the City exercises its option pursuant to Section 14(b)(iv), in recognition of the potential loss of value to the Acceptable Tenant or Default Tenant, as the case may be, the purchase price determined in this Section 14(d) shall be increased by the amount equal to the percentage set forth in the table below multiplied by the amount determined pursuant to (i) or (ii), as the case may be. For example, if the City exercises its option pursuant to Section 14(b)(iv) in Year 12 following a Permitted Transfer and the purchase price determined pursuant to this Section 12(d) is \$20,000,000, the purchase price payable to the Acceptable Tenant or Default Tenant, as the case may be, shall be equal to \$20,000,000 + (\$20,000,000 x 4%) = \$800,000.

Number of Years Passed Since Permitted Transfer	Percentage Amount Added to Purchase Price
1 year after the 10 th year	5%
2 years after the 10 th year	4%
3 years after the 10 th year	3%
4 years after the 10 th year	2%
5 years after the 10 th year	1%
6 years after the 10 th year and thereafter	No percentage increase to Purchase Price.

- (e) Within forty-five (45) days of delivery to the City and JoePC of a final appraisal report required by Section 14.3, the City may withdraw the exercise of this option and, if so, shall not be entitled to close a new exercise of this option for a period of five (5) years after the withdrawal.
- (f) At closing, JoePC shall deliver possession of the Leased Property and the JoePC Improvements to the City and assign, convey, and surrender to the City free and unencumbered title to its leasehold interests and the JoePC improvements and warrant to defend the City against any claim arising by, through, or under JoePC.
- (g) Additionally, the City and JoePC covenant that, to close the purchase as provided in this paragraph, each will execute and deliver such commercially reasonable documents as the City shall prepare.
- (h) Each party shall bear their own attorney’s fees and costs incurred to close the purchase, and share all taxes, fees, and recording costs imposed upon the transaction equally. Ad valorem taxes for the current year shall be prorated as of closing.

Section 14.3. Appraisal Procedure and Valuation Methodology. Appraised Value shall be determined as follows:

- (a) The City and JoePC may agree upon an appraiser to serve at joint expense to determine Appraised Value, or
- (b) The City and JoePC shall each appoint an appraiser at their respective expense qualified as described in Section 14.3, those two shall select a third appraiser so qualified to serve at joint expense, and the appraised value shall be the value

selected by the one of the two appraisers that is closest, on a dollar basis, to the fair market value selected by the third appraiser. If JoePC fails or refuses to appoint an appraiser within ten (10) Business Days after receipt of written notice of the City's appointment, the appraised value of this Lease shall be determined solely by the appraiser appointed by the City.

- (c) Appraised Value shall be determined using the following methodology and no other. Appraisal of value shall rely upon the following income approach that determines market value to be the most probable price which JoePC's leasehold interest in the Leased Property should bring in an a competitive and open market in an arm's length transaction between a willing and able buyer and seller under no compulsion to sell, such buyer and seller being apprised of and considering all relevant facts, circumstances and factors, including the historical and projected future earnings of the Complex and the value of all real property and personal property located on the Complex; and the costs and expenses associated with the continued operation of the Complex and all indebtedness for borrowed money owed by JoePC related to the Complex.
- (d) Any appraiser selected by the City or JoePC shall be an independent third-party appraiser nationally recognized as having demonstrated experience and expertise in the appraisal of hotel and restaurant properties similar to the Complex and having the availability and capacity to determine Appraised Value.

ARTICLE XV

RIGHT OF FIRST USE

Section 15.1. Generally.

(a) In consideration of JoePC, supported by St. Joe, being the first to redevelop a portion of the Marina and in recognition of the fact that coordinated maintenance and operation of all commercial activity on the Marina is desirable, during the first thirty (30) Rental Years of the Term when there shall not be a JoePC Event of Default continuing and JoePC shall continue to be controlled solely by St. Joe and continue to lease and operate either the Total Hotel or the Total

Restaurant, the City shall not itself or permit a private third party (private, public, for-profit or not-for-profit) to:

- (i) buy, rent, lease, sell, manage or operate any portion of the Marina Property, the adjacent submerged lands or any structure or facility located thereon or therein (the “First Use Area”), or
- (ii) engage in commercial activity within the First Use Area, or
- (iii) engage in any activity (commercial or otherwise) within the First Use Area that could reasonably be expected to (A) compete with the goods and services offered by JoePC in the Complex or (B) materially reduce Gross Hotel Revenue or Gross Restaurant Revenue during any period of time (each of (a)(i) through (iii), a “New Activity”);

without first giving JoePC the right (the “Right of First Use) to:

- (iv) make a proposal to use all or a portion of the First Use Area for an alternate purpose that will complement and enhance the Complex, or
- (v) make a proposal to use all or a portion of the First Use Area for the New Activity, or
- (vi) make a proposal to lease or purchase the First Use Area.

(b) Temporary commercial or other uses by the City or any private, third party for special events each lasting not longer than one (1) week and limited to not more than thirty (30) days of such special events in any three hundred sixty (360) day period shall not be a New Activity.

(c) JoePC’s Right of First Use proposal may include any manner of commercial activity it wishes to propose, including to buy, rent, lease, sell, manage or operate any portion of the First Use Area for use as a hotel, motel, inn, transient apartment, vacation rental or timeshare project.

Section 15.2. Procedure to be Followed. The following procedures shall be used to first facilitate and then implement JoePC’s Right of First Use.

- (a) Facilitation. To facilitate exercise or release of JoePC’s Right of First Use in each circumstance, the City covenants to make a commercially reasonable effort to give JoePC preliminary, informal notice that the City is actively considering the

initiation of a New Activity. If the New Activity involves a third party, the City shall make the third party generally aware that JoePC may exercise a prior right to use that portion of the First Use Area or to purchase or lease that portion of the First Use Area. In return, JoePC covenants to keep itself informed about the nature and development of the considerations and to indicate at the earliest practical time whether it may be interested in the New Activity. If interested, JoePC agrees to diligently participate in the development of the New Activity; if not, JoePC agrees to continue to keep itself sufficiently informed about the development of the New Activity to be able to decline the formal implementation of its rights. It is understood that a preliminary declination by JoePC will not preclude JoePC from changing its mind and subsequently exercising its Right of First Use as part of the implementation process set forth in the next Section. JoePC's exclusive remedy for any delay or failure by the City to preliminarily inform it that a New Activity is actively being considered shall be a brief "stand-still" during which the City shall make no commitments with any third party advancing the development of the New Activity and during which JoePC shall have an opportunity to educate itself about the possible New Activity. JoePC must request a stand-still in writing within three (3) Business Days following receipt of written notice that a potential New Activity unknown to it is being considered by the City. The length of the stand-still remedy shall be fifteen (15) Business Days.

(b) Implementation. The following process shall be used to implement JoePC's Right of First Use.

(i) The City shall give JoePC written notice describing the nature, location, term, physical structures, financial arrangements, proposed purchase price and terms, if applicable, name of the third-party and similarly material terms of the proposed New Activity, and stating that, based upon currently known facts and circumstances which are subject to change by time and additional information, the City is inclined to enter a contract allowing or effecting the New Activity subject to commercially reasonable covenants and terms typical in that type of contract with a local government.

- (ii) JoePC shall have thirty (30) calendar days after delivery of the City notice to give the City written notice that it desires to negotiate terms and conditions for the exercise of its Right of First Use.
- (iii) Neither the City's notice, nor JoePC's affirmative response shall be considered under any possible circumstances to be an offer or an acceptance or to constitute a binding contract. Upon the City's receipt of JoePC's notice that it desires to exercise its Right of First Use, the City and JoePC shall attempt in good faith to negotiate a definitive agreement. If the City and JoePC are unable to negotiate a definitive agreement within ninety (90) days, despite the good faith efforts of both parties, or if JoePC affirmatively in writing withdraws and cancels the negotiations before the end of any such period for any reason or no reason, then except for the limited rights provided in Subsection (iv) of this Section, JoePC's preferential rights shall be conclusively cancelled and waived, but JoePC shall not for that reason alone be disqualified from any participation in the New Activity the same as members of the public generally and as if this Lease did not exist.
- (iv) Notwithstanding the foregoing, if JoePC's initial proposal was not substantially equivalent to the proposal originally noticed by the City (the "Initial City Proposal"), JoePC shall have the right to make a proposal substantially equivalent to the Initial City Proposal (the "Substantially Equivalent Proposal") within thirty (30) days from the end of the initial 90 day negotiation period, and JoePC and the City shall again attempt in good faith to negotiate a definitive agreement based on the Substantially Equivalent Proposal for an additional thirty (30) day period from the date of JoePC's delivery of the Substantially Equivalent proposal. If the City and JoePC are unable to negotiate a definitive agreement within thirty (30) days from delivery of JoePC's substantially equivalent proposal, despite the good faith efforts of both parties, or if JoePC affirmatively in writing withdraws and cancels the negotiations before the end of such period for any reason or no reason, then all of JoePC's preferential rights shall be

conclusively cancelled and waived, but JoePC shall not for that reason alone be disqualified from any participation in the New Activity the same as members of the public generally and as if this Lease did not exist.

- (v) The City agrees that JoePC may assign to St. Joe its right to make such a proposal and thereafter attempt to negotiate a definitive agreement, and that if based upon that assignment St. Joe and the City reach a definitive agreement, St. Joe in turn may assign that agreement to a Single Purpose Entity which is an Affiliate of St. Joe over whom St. Joe exercises no less control than it exercises over JoePC as described in Section 13.20. The Right of First Use granted here may be exercised only by one of those parties.
- (vi) Nothing herein shall be construed to impair or prevent the City and St. Joe from directly negotiating and entering an agreement each is otherwise authorized to enter the same as if JoePC's Right of First Use did not exist.

Section 15.3. Extent of Rights Exercised or Declined by JoePC.

- (a) In order to implement and preserve the intent of the parties regarding JoePC's Right of First Use, each agreement between the City and any Person entered through either JoePC's exercise or JoePC's waiver of that right (which in the first instance would include JoePC, St. Joe, or a St. Joe's Affiliate) must specify the nature, location, term, physical structures, financial arrangements, proposed purchase price and terms, if applicable, and similar material terms of the New Activity consistent with the implementation notice given to JoePC and in no less detail than there stated, and further authorize the City to terminate that agreement after notice and opportunity to cure substantially equivalent to the default provisions of this Lease.
- (b) If Joe PC has waived its Right of First Use, the City and the third-Person counterparty may not change the nature, location, term, physical structures, financial arrangements, proposed purchase price and terms, if applicable, or similarly material terms of the New Activity for a period of five (5) years without JoePC's written consent.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the City has caused this Lease Agreement to be executed in its name by its Manager and Mayor as of the day and year first above written, whose execution has been duly attested by its Clerk, and the form and sufficiency of which has been approved by the City Attorney.

Signed, sealed and delivered in the presence of:

THE CITY OF PANAMA CITY,
a Florida municipal corporation

Patricia J. Hovis
Witness #1 Signature

PATRICIA J. HOVIS
Witness #1 Printed Name

By: *Greg Brudowski*
Name: Greg Brudowski
Title: Mayor
Date: August 25, 2020

Caitlin Lawrence
Witness #2 Signature

Caitlin Lawrence
Witness #2 Printed Name

Attested by:
Brandy Waldron
Brandy Waldron, Clerk

APPROVED AS TO FORM AND CORRECTNESS:
Nevin J. Zimmerman
Nevin J. Zimmerman, City Attorney
Burke Blue P.A.

IN WITNESS WHEREOF, JoePC has caused this Lease Agreement to be executed in its name by its President as of the day and year first above written, whose execution has been duly attested by its Secretary, and the form and sufficiency of which has been approved by its General Counsel.

Signed, sealed and delivered in the presence of:


JOE PCOZ, LLC,
a Florida limited liability company



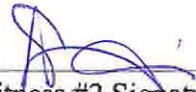
Witness #1 Signature

Christopher McClellan

Witness #1 Printed Name

By: 

Name: Patrick Murphy
Title: President
Date: October 6, 2020



Witness #2 Signature

Sherri A. Jankowski

Witness #2 Printed Name

Attested by:


Elizabeth J. Walters, Secretary



Panama City Marina Area

Exhibit A - Downtown Marina Property



Legend

 Panama City Marina Property



St. Joe Company GIS - CWP - 3/5/2019

E:\Projects\County\Bay\Marina_Hotel\
MIND\PC\Marina_Area_Lence_030519.mxd

EXHIBIT B.

HOTEL STANDARDS

1. **Flag Hotel.** JoePC shall open and operate the Hotel under a Trademark License Agreement for, and as, an Upper Midscale Hotel. JoePC shall undertake such maintenance and improvements as are required by the Flag to maintain the brand standards imposed by the Upper Midscale Hotel Flag. At all times when JoePC is a party to a Trademark License Agreement for an Upper Midscale Hotel, JoePC shall be deemed to be in compliance with the Hotel Standards if JoePC is in compliance with the Trademark License Agreement and brand standards for that Flag.

2. **Withdrawal from Flag.** JoePC shall be entitled to withdraw from the Trademark Licensing Agreement and immediately begin to operate the Hotel without a Trademark License Agreement, if each of the following conditions are met:

- (a) No Event of Default is then continuing;
- (b) The Hotel has met the Hotel Standards for the immediately preceding two-year period and each of JoePC and St. Joe certifies that after due investigation neither is aware of any circumstances which indicate that the Hotel will fail to meet the Hotel Standards for the immediately following two-year period.
- (c) For the immediately preceding five-year period, St. Joe has operated, managed or had a material (twenty percent or more) ownership interest in at least two other, independent, non-flag hotels in the southeast market which are of comparable or larger size as the Hotel (each a "Qualifying Hotel"), and St. Joe certifies that it is not aware of any circumstances likely to result in the number of Qualifying Hotels falling below the current level within the next following two year period.
- (d) JoePC has entered a managing, operating, or licensing agreement, or other form of agreement(s) in form and substance reasonably satisfactory to the City, demonstrating that JoePC shall operate the Hotel as part of the St. Joe brand encompassing all of the Qualifying Hotels (the "Independent License Agreement"). The City acknowledges that the Qualifying Hotels may differ in style, names, amenities and price points.

- (e) JoePC shall have given the City ninety days' written notice of the change, including a copy of the executed Independent License Agreement and sufficient information for the City to confirm that all the forgoing conditions have been or will be timely met.

3. **Independent Hotel Standards.** Within one (1) year from Withdrawal, JoePC shall operate the Hotel in material conformity with the standard practices of the hospitality industry for, at a minimum, an Upper Midscale Hotel.

4. **Inspection and Reporting.**

- (a) On the first anniversary of the Withdrawal and thereafter if requested by the City no more often than once in any five (5) year period, JoePC shall retain an independent hotel consultant approved by the City, whose approval shall not be unreasonably withheld, delayed or conditioned, to perform an inspection of the Hotel and surrounding landscaped areas, including landscape and plant material including grass or other ground coverings, shrubs and tree, pool and recreational facilities, publicly accessible access and walkways, other paved areas, curbing, exterior and interior walls and windows and glass, all fixtures, furnishings, furniture, and equipment throughout each guest room or bathroom and the common areas, all restaurants and lounges and associated common restrooms and gathering areas, and other areas, elevators, back of house support areas including kitchens or laundry, storm drainage, life safety systems, electrical, plumbing and HVAC systems, interior and exterior signage and lighting, roofing, and all other improvements and a report thereof (the "Hotel Condition Report"). The Hotel Condition Report shall document the condition of each area inspected, its current suitability, and the costs, if any, of needed improvements or upgrades to meet the standards required of an Upper Midscale Hotel.
- (b) In connection with the Hotel Condition Report, JoePC shall deliver to the City a plan of action for preventive maintenance and inspections addressing procedures or systems for scheduling such maintenance, providing records of same, and outlining its own functional systems of inspections and controls, addressing without

limitation all the areas required by the Hotel Condition Report and including detailed information about each system, improvement or fixture and the manner by which service orders, follow-ups, and completions are addressed.

- (c) Periodically, between these formal inspections and reports, the City and its employees and representatives shall have the right to enter the premises during regular business hours upon reasonable prior written notice to JoePC to determine whether JoePC is in compliance with this Lease.

5. **Dispute Resolution.**

- (a) The City has the right to accept or reject the Hotel Condition Report. If it rejects the report, or if it desires based upon its own periodic inspection between formal inspections, the City may retain at its expense its own independent hotel consultant who shall have at least ten (10) years' experience in the hotel industry. That consultant shall produce a report at any time explaining in commercially reasonable detail why the report by JoePC's hotel consultant is not correct.
- (b) After the City's hotel consultant's report is delivered to JoePC, the City and JoePC shall not take any formal action for thirty (30) days. They may elect to discuss or mediate the matter during that period of thirty (30) days.
- (c) At the end of that period of time, if the City does not agree that the Hotel is being operated at the standards required by this Lease, then the City has the right to require that the City and JoePC jointly file a complaint for declaratory relief from the American Arbitration Association in the closest convenient location, but always with three (3) arbitrators with expertise in the hotel industry. The cost of mediation shall be borne jointly by the parties.
- (d) The arbitrators shall either rule that the Hotel meets or does not meet the standards required by this Lease. If the ruling is that the standards have not been met, the order shall state which standards have not been met and may specify adequate remedial action.

6. Cure and Events of Default. If JoePC and the City agree, based on the Hotel Condition Report, that any enumerated standards have not been met (the “Hotel Cure Agreement”) or JoePC receives an arbitration order specifying that any enumerated standards have not been met, JoePC shall have six (6) months within which to develop a plan, deliver that plan to the City, and commence the necessary action to meet the standards enumerated in the Hotel Cure Agreement or order, as the case may be, and an additional twelve (12) months within which to meet those standards prior to any failure being deemed an Event of Default. JoePC’s failure to meet the standards enumerated in the Hotel Cure Agreement or order, as the case may be, within that eighteen (18) month period shall constitute an Event of Default. If within thirty-six (36) months from the Hotel Cure Agreement or order, as the case may be, JoePC shall again fail to meet any of those enumerated standards within sixty (60) days from and after receipt of written notice from the City, then such subsequent failure shall constitute an Event of Default.

EXHIBIT C

ACCEPTABLE TENANT DEFINITION

A. “Acceptable Tenant” means any individual, corporation or other entity which has, at a minimum, the following qualifications (collectively, the “Acceptable Tenant Criteria”):

1. The Proposed New Tenant must possess the qualifications, experience, good reputation and financial resources necessary for the operation of the Complex, according to this Lease, in a manner consistent with the quality, reputation and economic viability of the Complex, each as determined in the good faith, commercially reasonable discretion of the City.
2. There shall be no outstanding material violations of any Governmental Requirement against the Proposed New Tenant, or any hotel, restaurant, or other property owned or managed by such Proposed New Tenant, or an Affiliate of such Proposed New Tenant which have remained uncured for more than ninety (90) days.
3. The Proposed New Tenant must not be owned or controlled by entities or individuals who have been convicted, or are presently under indictment, for felonies under the laws of any foreign or United States of America jurisdiction.
4. The Proposed New Tenant must not (nor any of the individuals or entities who own at least a ten (10%) percent equity interest in the Proposed New Tenant or are officers, directors, managers or otherwise have the power to direct and control the business and affairs of the Proposed New Tenant) have filed or been discharged from bankruptcy, or have been the subject of an involuntary bankruptcy, reorganization or insolvency proceedings within the past five (5) years (bankruptcy filings by affiliates shall not disqualify a Proposed New Tenant, unless such affiliates are any of the individuals or entities described in the parenthetical immediately above).
5. The Proposed New Tenant must not in its charter or organizational documents (defined as the articles of incorporation and bylaws for any corporation, the

partnership agreement and partnership certificate for any partnership, the trust agreement for any trust, the operating agreement of any limited liability company) expressly advocate or have as its stated purpose: (a) the violent overthrow of or armed resistance against, the U.S. government; or (b) genocide or violence against any persons; or (c) discrimination, hatred or animosity toward persons based solely on their race, creed, color, sex or national origin.

B. Evaluation of the “Acceptable Tenant Criteria”: Solely for the purpose of evaluating whether the Proposed New Tenant meets the five (5) criteria set forth above, it, he or she shall provide the following information to JoePC which shall provide a copy to be reviewed by the City:

1. The identity of the Proposed New Tenant.
2. Copies of any current operating licenses held by the Proposed New Tenant issued by any governmental authority.
3. Identification of the hotels, restaurants, retail, amusement or other hospitality properties with which the Proposed New Tenant, or its Affiliate, has been or is associated as a tenant, manager, employee, consultant or otherwise, including the nature and period of association.
4. Resumes of the Proposed New Tenant, senior executives, and other key employees.
5. The organizational documents of the Proposed New Tenant and governmental certification of good standing.
6. Information sufficient for the City to perform a permitted background check.
7. Financial statements reflecting the Proposed New Tenant’s financial ability to meet the obligations and requirements involved in the Transfer.
8. A list of all bankruptcies filed by or which the Proposed New Tenant, or an Affiliate of the Proposed New Tenant, was a party-bankrupt, if any.
9. A list of all pending litigation, liens or claims in which the Proposed New Tenant is currently involved.
10. A list of four (4) persons or firms with whom Proposed New Tenant has conducted business transactions during the past three (3) years. At least two (2) of those

references must have knowledge of the Proposed New Tenant's debt payment history.

11. Such other evidence as is commercially reasonably necessary to establish that the new entity proposed to be an Acceptable Tenant meets the Acceptable Tenant Criteria.

C. Approval Process: The City will not unreasonably withhold, condition or delay its consent if the Proposed New Tenant meets the Acceptable Tenant Criteria.

1. JoePC shall initiate the process by delivering written notice to the City proposing an Acceptable Tenant accompanied by the evaluation information specified above.
2. The City shall have forty-five (45) days after all the information requested is received to determine whether, on a commercially reasonable basis, the Proposed New Tenant meets the Acceptable Tenant Criteria or whether additional information is needed.
4. If the City notifies JoePC, in writing, within such forty-five (45)-day period, that the information submitted is, on a commercially reasonable basis, incomplete or insufficient (and specifies in what ways it is incomplete or insufficient), then JoePC shall supplement such information on a commercially reasonable basis, and the City shall have thirty (30) days after such supplemental information is provided to make its determination whether the Proposed New Tenant meets the Acceptable Tenant Criteria.
5. If the City disapproves the Proposed New Tenant, the City shall provide to Developer specific written, commercially reasonable reasons for such disapproval. The City's failure to timely object to the Proposed New Tenant as specified above shall be deemed to be the approval by the City of the Proposed New Tenant as an Acceptable Tenant.
6. Any entity approved as an Acceptable Tenant must meet the Acceptable Tenant Criteria throughout its service as an Acceptable Tenant hereunder unless certain of said qualifications were waived by the City, in writing, at the time of original approval.

7. No approval by the City of a Proposed New Tenant as an Acceptable Tenant or its meeting of the Acceptable Tenant Criteria shall have the effect of waiving or estopping the City from later claiming that an approved Acceptable Tenant is in violation of any agreement for which the Acceptable Tenant is responsible.

D. Dispute Resolution: If there is any dispute, in whole or in part, between the City and JoePC over the provisions of this **Exhibit C**, the qualifications of the Proposed New Tenant, or whether the Proposed New Tenant meets the Acceptable Tenant Criteria, it shall be resolved in Bay County, Florida, using the then-applicable Commercial Arbitration rules of the American Arbitration Association, except that, in any event, there shall be three (3) arbitrators. They shall be the last three (3) people left on a list, after both parties alternate striking names, provided by the American Arbitration Association. The party that shall strike first shall be determined by lot. The list shall contain the names of twenty-one (21) people with substantial experience in hotel projects. All costs of Arbitration shall be borne equally by the parties. Each party shall be responsible for its own attorneys' and consultants' fees, if any. The dispute shall be solely between the City and JoePC. No Proposed New Tenant shall have any rights in this process, shall not be considered a third-party beneficiary, and shall have no standing to participate in the resolution of any dispute other than as a fact witness subject to cross-examination.

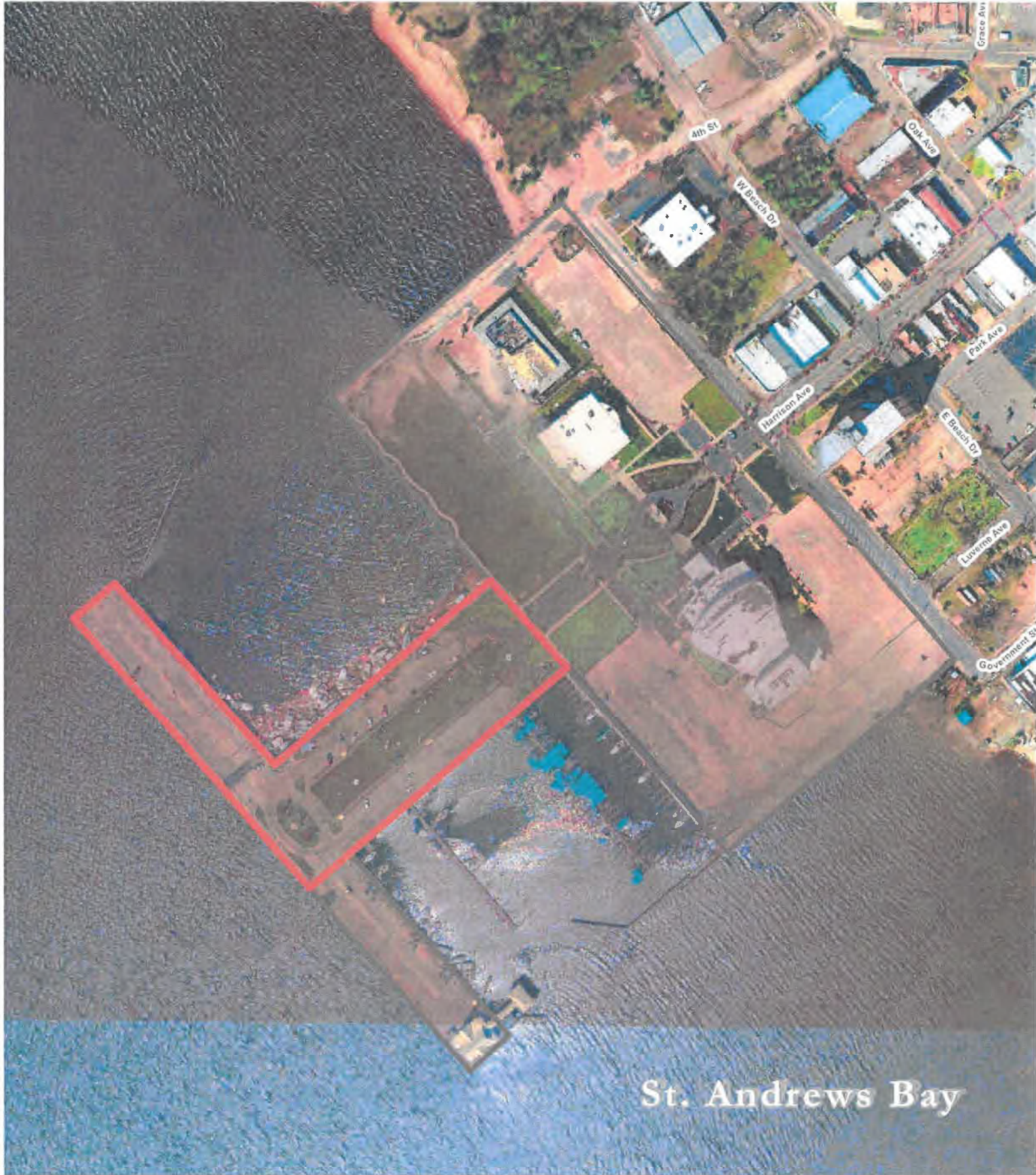


Exhibit D

Panama City Marina Area

Panama City, Bay County, FL
Section 8, T4S, R14W

0 100 200 400 Feet

Legend

 Bay-Ward View Corridor Map

STJOE
ST. JOE COMPANY
10000 W. WINDY HILL RD.
DALLAS, TX 75243
(972) 412-1000
www.stjoe.com



Imagery dated approx. 10/14/17

St. Joe Company GIS - CWP - 2/12/20

EXHIBIT E

LEGAL DESCRIPTION OF LEASED PROPERTY

[As it may be modified prior to commencement of construction as provided in Section 2.1(d)]

Exhibit F Site and Complex Plan



Note: Subject to Section 3.1a and all other terms of the lease.

EXHIBIT G
SCHEDULE OF PERFORMANCE

Schedule of Performance – Hotel

- Building Permit to be obtained 90 days after issuance of Development Order
- Construction commences 90 days after issuance of Building Permit
- Certificate of Occupancy to be issued within 24 months from construction commencing
- Certificate of Completion to be requested within 120 days from issuance of Certificate of Occupancy

Schedule of Performance – Restaurant

- Building Permit to be obtained 12 months after construction commences on Hotel
- Construction commences 90 days after issuance of Building Permit
- Certificate of Occupancy to be issued within 12 months from construction commencing
- Certificate of Completion to be requested within 120 days from issuance of Certificate of Occupancy

EXHIBIT H
HOTEL PARTICIPATION RENT SCHEDULE

Average Daily Rate (“ADR”) for any Generation Month occurring more than twelve full and consecutive months after the Opening Date:	Occupancy Rate for that same Generation Month:	Percentage of Gross Room Revenue to be paid as Participation Rent for the Generation Month:
\$0 - \$149 ADR	66% or less	0%
\$150 - \$164 ADR	67% or greater	2%
\$165 - \$179 ADR	67% or greater	3%
\$180 - \$194 ADR	67% or greater	4%
\$195 and up ADR	67% or greater	5%

EXHIBIT I
RESTAURANT PARTICIPATION RENT SCHEDULE

Gross Restaurant Revenue for the Applicable Rental Year	Percentage of Gross Restaurant Revenue to be paid as Participation Rent for the Generation Month
\$0 - \$650,000	0%
\$651,000 - \$1,200,000	2%
\$1,200,001 - \$2,000,000	4%
Greater than \$2,000,001	6%

EXHIBIT J
RESTAURANT STANDARDS

1. **Restaurant Standards**. Starting sixty (60) months from the Completion Date, JoePC shall operate the Restaurant as a casual, table-service restaurant containing menu items typical of a professionally-trained cook, with appropriate well-maintained casual décor, tables and chairs, and with all interior and exterior areas and features maintained in a good, neat, clean safe order and condition.
2. **Inspection and Reporting**. If requested by the City, no more often than once in any five (5) year period, JoePC shall retain an independent restaurant consultant approved by the City, whose approval shall not be unreasonably withheld, delayed or conditioned, to perform an inspection of the Total Restaurant and surrounding landscaped areas, including landscape and plant material including grass or other ground coverings, shrubs and tree, publicly accessible access and walkways, other paved areas, curbing, exterior and interior walls and windows and glass, dining areas, food storage and preparation areas and facilities, outside seating areas, gathering areas, bathrooms, all fixtures, furnishings, furniture, and equipment, life safety systems, electrical, plumbing and HVAC systems, interior and exterior signage and lighting, roofing, and all other improvements and a report thereof (the “Restaurant Condition Report”). The Restaurant Condition Report shall document the condition of each area inspected, its current suitability, and the costs, if any, of needed improvements or upgrades to such areas to maintain a good, neat, clean safe order and condition, as required by this Lease.

In connection with the Restaurant Condition Report, JoePC shall deliver to the City a plan of action for preventive maintenance and inspections addressing procedures or systems for scheduling such maintenance, providing records of same, and outlining its own functional systems of inspections and controls, addressing without limitation all the areas required by the Restaurant Condition Report and including detailed information about each system, improvement or fixture and the manner by which service orders, follow-ups, and completions are addressed.

Periodically, between these formal inspections and reports, the City and its employees and representatives shall have the right to enter the premises during regular business hours upon reasonable prior written notice to JoePC to determine whether JoePC is in compliance with this Lease.

3. **Dispute Resolution.** The City has the right to accept or reject the Restaurant Condition Report. If it rejects the report, the City shall retain its own independent restaurant consultant who shall have at least ten (10) years' experience in the restaurant industry. That consultant shall produce a report at any time explaining in commercially reasonable detail why the report by JoePC's restaurant consultant is not correct.

After the City's restaurant consultant's report is delivered to JoePC, the City and JoePC shall not take any formal action for thirty (30) days. They may elect to discuss or mediate the matter during that period of thirty (30) days.

At the end of that period of time, if the City does not agree that the Restaurant is being operated at the standards required by this Lease, then the City has the right to require that the City and JoePC jointly file a complaint for declaratory relief from the American Arbitration Association in the closest convenient location, but always with three (3) arbitrators with expertise in the restaurant industry. The cost of mediation shall be borne jointly by the parties.

The arbitrators shall either rule that the Restaurant meets or does not meet the standards required by this Lease. If the ruling is that the standards have not been met, the order shall state which standards have not been met and may specify adequate remedial action.

4. **Cure and Events of Default.** If JoePC and the City agree, based on the Restaurant Condition Report, that any enumerated standards have not been met ("Restaurant Cure Agreement") or JoePC receives an arbitration order specifying that any enumerated standards have not been met, JoePC shall have six (6) months within which to develop a plan, deliver that plan to the City, and commence the necessary action to meet the standards enumerated in the Restaurant Cure Agreement or order, as the case may be, and

an additional twelve (12) months within which to meet those standards prior to any failure being deemed an Event of Default. JoePC's failure to meet the standards enumerated in the Restaurant Cure Agreement or order, as the case may be, within that eighteen (18) month period shall constitute an Event of Default. If within thirty-six (36) months from the Restaurant Cure Agreement or order, as the case may be, JoePC shall again fail to meet any of those enumerated standards within sixty (60) days from and after receipt of written notice from the City, then such subsequent failure shall constitute an Event of Default.

EXHIBIT K

THE ST. JOE COMPANY GUARANTEE OF THIS LEASE

[Attached hereto]

Ground Lease Guaranty

THE ST. JOE COMPANY, a Florida corporation, having an address at 133 S Watersound Parkway, Watersound, FL 32461 (“**Guarantor**”), as consideration for and in order to induce the CITY OF PANAMA CITY, a Florida municipal corporation, having an address at _____ (the “**City**”) to enter into a ground lease (the “**Lease**”) of a portion of the Panama City Marina with JOE PCOZ, LLC, a Florida limited liability company, as tenant (“**JoePC**”), solely owned and controlled by JOE QOZ FUND, INC., a Florida corporation solely owned and controlled by Guarantor, hereby agrees as follows:

1. Obligations. Guarantor guarantees unconditionally to the City the punctual payment, performance, and observance of all monetary (including the payment of all rent, additional rent, and any other payments due and payable under the Lease) and non-monetary obligations, covenants, conditions, and agreements required to be observed and performed or paid or reimbursed by JoePC pursuant to the Lease (collectively, the “**Obligations**”).

2. Unconditional Guaranty. The Obligations are unconditional. The Obligations and this Guaranty will remain in full force and effect without regard to (a) the failure of City to assert any claim or demand, or to enforce the Lease or any right or remedy available to City under the Lease, against JoePC under the Lease or any other agreement; (b) any extension or renewal of the Lease approved by JoePC; (c) any amendment or modification of the Lease approved by JoePC; or (d) any bankruptcy or similar proceeding involving City or JoePC. Notwithstanding the foregoing, if JoePC Transfers all or any portion of its interest in the Lease, in compliance with the terms of the Lease, the Obligations and this Guaranty shall automatically terminate and Guarantor shall be automatically released from the Obligations with respect to the interest Transferred for any period of timing arising after the date of Transfer. Upon request by the Guarantor, the City shall promptly execute and deliver a document affirming the termination and release of Guarantor in accordance with this Section 2.

3. Waiver. Guarantor agrees that this Guaranty constitutes a guaranty of payment and performance when due and not just of collection. Guarantor waives presentment and demand for payment, notice of non-payment or non-performance, and any other notice or demand to which Guarantor might otherwise be entitled. The City shall not be required to resort to any other person or entity or to any security for payment or performance of any part of the Lease or to any advance rent, or to any deposit, account, credit, or offset on the books of the City in favor of JoePC.

4. Joint and Several Liability. The City may, at the City’s option, proceed against Guarantor and JoePC, jointly and severally, or against Guarantor only, without having obtained a judgment against JoePC.

5. Subordination. Upon payment by Guarantor of any sums to the City hereunder, all rights of Guarantor against JoePC arising as a result thereof by way of right of subrogation, indemnification, or otherwise shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full of all obligations under the Lease.

6. Further Assurances and Severability. Guarantor will execute, acknowledge, and deliver, at its own expense, all instruments and take all action as the City from time to time may reasonably request for ensuring the City the full benefits of this Guaranty. If any provision of this Guaranty is to any extent determined by final decision of a court of competent jurisdiction to be unenforceable, the remainder of

this Guaranty will not be affected thereby, and each provision of this Guaranty will be valid and enforceable to the fullest extent permitted by law. The City's delay in exercising, or the failure to exercise, any right under this Guaranty will not waive such right or any other right of the City.

7. Notices. All notices or communications under this Guaranty shall be sufficient given or delivered if dispatched by hand delivery, or by nationally recognized overnight courier providing receipts, or by registered or certified mail, postage prepaid, return receipt request to the City or the Guarantor, as the case may be, at the addresses set forth on the first page of this Guaranty (or to such other address that may be designated by the receiving party from time to time in accordance with this section).

8. Miscellaneous.

(a) If the City or Guarantor shall institute legal proceedings in connection with, or for the enforcement of, this Guaranty, the prevailing party shall be entitled to recover its costs of suit, including commercially reasonable attorneys' fees, at both trial and appellate levels.

(b) This Guaranty may not be changed in any manner other than by a written agreement signed by Guarantor and the City. This Guaranty will be governed by the laws of the State of Florida. All capitalized terms not defined herein shall have the meaning ascribed to them in the Lease, a true and correct copy of which Guarantor hereby acknowledges receipt. The Paragraph headings appearing herein are for purposes of convenience only and are not deemed to be part of this Guaranty.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Guarantor has caused this Agreement to be executed as of the date below, effective as of the Effective Date.

THE ST. JOE COMPANY

By: _____

Name: _____

Title: _____

Date: _____

Acknowledgement by the City:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT L
EXAMPLE OF RENT CALCULATIONS

Hotel Example:

Assumptions:

Generation Month = 14th month after the Opening Date

ADR for the Generation Month = \$150

Occupancy Rate for the Generation Month = 70%

Gross Room Revenue for the Generation Month = \$400,000

Participation Rent for the Generation Month = \$400,000 * 2% = \$8,000

Restaurant Example:

Assumptions:

Generation Month = 14th month after the Opening Date

Gross Restaurant Revenue for that Rental Year = \$700,000

Gross Restaurant Revenue for the Generation Month = \$40,000

Participation Rent for the Generation Month = \$40,000 * 2% = \$800

FOR THE AVOIDANCE OF DOUBT, THE ABOVE EXAMPLE RENT CALCULATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY AND DO NOT CONSTITUTE ANY REPRESENTATION OF EXPECTED RENT AMOUNTS AND SHALL NOT BE RELIED UPON BY THE CITY FOR ANY SUCH PURPOSE.