

**EXHIBIT "K"**

**CDD FINANCING STRUCTURE**  
**TO**  
**AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND GROUND LEASE**  
**BETWEEN**  
**MARGARITAVILLE HOLLYWOOD BEACH RESORT, L.P.**  
**AND THE CITY OF HOLLYWOOD, FLORIDA**

**DATED AS OF May \_\_, 2013**

**Summary of Potential Community Development District Bond Financing**

- A. Project. The City of Hollywood, Florida (the "City") seeks to redevelop real property owned by the City located between the Atlantic Ocean and the Intracoastal Waterway in the vicinity of Johnson Street, to include:
1. Margaritaville Resort Hotel. A 349 room hotel with convention, restaurant/bar and retail space ("Hotel") and certain boat landing improvements.
  2. Parking Garage. A multi-level parking facility with:
    - a. Public Parking comprising 579 spaces within the CDD portion of the garage and 21 spaces on the third floor and ramp to the fourth floor, six spaces of which are handicap spaces (total 600 spaces) for use by the general public in accordance with the Parking Garage Standards attached to the Amended and Restated Development Agreement and Ground Lease as **Exhibit "G"**; and
    - b. Private Parking comprising 456 spaces for use in connection with the operation of the Hotel.
- B. Developer. Margaritaville Hollywood Beach Resort, L.P. a company possessing the experience and financial resources to develop the Project.
- C. Real Property Ownership.
1. City Remains Fee Owner of Land. The City will retain the fee interest in the real property.
  2. Ground Lease. The City will enter into a ground lease with the Developer for a term of 99 years for the property ("Leased Property") upon which the 1056 private and public parking facilities and the Hotel will be constructed. The parking facilities will comprise the lower floors (3 through 8) and the Hotel will be constructed above the parking facilities.
  3. Specific Ground Lease Provisions.

a. **Covenant to Pay Special Assessments.** Under the ground lease, the Developer will agree to pay all special assessments levied by the CDD on the Developer's leasehold interest in the Leased Property and private vertical construction thereon to finance the portion of the Parking Garage designated for public parking. Failure to pay such special assessments will be considered a payment default under the ground lease.

b. **Covenant to Impose User Fee.** The Developer may impose a public user fee for the benefit of the CDD, but not imposed through the exercise of any power by the CDD, to be remitted to, and collected by, the CDD to be applied by the bond trustee for the payment of the special assessment bonds issued by the CDD. Any public user fee shall be imposed on sales of goods or services that occur within the Leased Property.

c. **Leasehold Mortgages Subordinated.** Leasehold mortgages secured by the Developer's leasehold interest in the Leased Property and vertical construction thereon will be contractually subordinated to the easement interest of the CDD and the fee title ownership of the facilities conveyed by special warranty deed, comprising the portion of the Parking Garage designated for public parking.

d. **Leasehold Mortgagee Cure Provisions.** The ground lease will contain typical provisions such that a leasehold mortgagee will have the opportunity to cure defaults under the ground lease for specified periods of time. This includes right to cure payment of CDD and other special assessments on the Developer's ground lease interests and vertical construction.

e. **City Guaranty of Payments of Principal and Interest on Assessment Bonds Under Certain Circumstances.**

(i) There will be created as a separate deposit account in the custody of the bond trustee, a trust fund designated the Debt Service Reserve Fund, the "Reserve Fund". In the event that (i) the Developer fails timely to make any payment due with regard to special assessments on the Leased Property, (ii) the applicable lender/mortgagee, or a replacement Developer, if any, does not cure such default within the time frames provided under the special assessment bond documents (which shall be substantially similar to the time frames provided in Article VI of the ground lease), (iii) the CDD does not have funds available from collection of user fees, or from operation of the Public Parking, taking into account commercially reasonable reserves for future expenses for the Public Parking, to make up the shortfall; and (iv) as a result, the amounts in the Bond Fund no less than twenty (20) days prior to a Bond Payment Date are less than the amount due on such Bonds on such Bond Payment Date, the bond trustee shall transfer, from the Reserve Fund an amount sufficient to make up any deficiency in the Bond Fund. In the event of any such transfer, the bond trustee shall, within five (5) days after making such transfer, provide written notice to the Developer, with a copy to the City,

of the amount and date of such transfer and the Developer shall, within five (5) days of receipt of such written notice, pay to the Trustee for deposit into the Reserve Fund an amount necessary to cause the moneys in the Reserve Fund to be equal to the Reserve Fund Requirement. In the event the Developer does not reinstate the balance in the Reserve Fund to the Reserve Fund Requirement within the time frame provided above, or if the amount paid by the Developer is not sufficient to cause the moneys in the Reserve Fund to be equal to the Reserve Fund Requirement, then the Trustee within two (2) days shall provide written notice of such deficiency to the City. The Trustee shall notify the City of any draw upon or deficiency in the Reserve Fund as provided herein and shall make demand on the City to replenish the Reserve Fund to the Reserved Fund Requirements as provided in Paragraph (ii) immediately below.

- (ii) Covenant to Budget and Appropriate (the "Guaranty"). The City hereby covenants to budget and appropriate to replenish the Reserve Fund at the next City Commission meeting following receipt of the above notice of deficiency from the Trustee while the CDD Bonds are outstanding and to deposit into the Reserve Fund no later than sixty (60) days following such City Commission meeting, from all legally available Non-Ad Valorem Revenues of the City, sufficient Non-Ad Valorem Revenues to supplement the moneys in the Reserve Fund to the extent necessary to cure any deficiencies therein.

The Guaranty is cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to cure any deficiency in the Reserve Fund shall have been budgeted, appropriated and actually paid. Except with respect to such Non-Ad Valorem Revenues deposited in the Reserve Fund, the Guaranty does not create a lien upon or pledge of such Non-Ad Valorem Revenues nor does it preclude the City from pledging in the future all or any specified portion of the Non-Ad Valorem Revenues, nor does it give the Registered Owners a prior claim on all or any specified portion of the Non-Ad Valorem Revenues as opposed to claims of general creditors of the City.

Although the City's obligation to make payments under its Guaranty is subject to the conditions set forth in paragraph (i) above, the Guaranty is on par with other debt of the City supported with the City's pledge of Non-Ad Valorem Revenues and the City's covenant to budget and appropriate Non-Ad Valorem Revenues. The Guaranty is intended to have the effect of making available for the deposit into the Reserve Fund, at such times as may be required to cure any deficiency therein within the time frames described in paragraph (i) and under the special assessment bond documents as may be required by bond rating agencies or credit enhancers, the Non-Ad Valorem Revenues and placing on the City a positive duty to appropriate and budget, by amendment if necessary,

amounts sufficient to cure such deficiency. The Guaranty is subject in all respects to the restrictions of Section 166.241, Florida Statutes, which provides that the governing body of each municipality shall make appropriations for each Fiscal Period which, in any one year, shall not exceed the amount to be received from taxation and other revenue sources, and to payments which are legally mandated by applicable law.

The obligations of the City contained herein shall not be construed as a limitation on the ability of the City to pledge or covenant to pledge or use all or any portion of the Non-Ad Valorem Revenues for other legally permissible purposes. The obligation of the City to cure such deficiency in the Reserve Fund within the time frames provided under the special assessment bond documents, is subject to the availability of money in the treasury of the City and funding requirements for essential public purposes affecting the health, welfare and safety of the inhabitants of the City or which are legally mandated by law; however, such obligation is cumulative and shall carry over from Fiscal Period to Fiscal Period.

- (iii) Moneys in the Reserve Fund shall only be used for the purpose of transferring to the Bond Fund an amount sufficient to make up for deficiencies in amounts deposited to the Bond Fund, in the event that moneys therein are less than the amount then due to the owners of the Bonds on any Bond Payment Date.
  - (iv) The obligation of the City hereunder will not constitute general obligation debt or indebtedness within the meaning of any constitutional or statutory limitation, or a pledge of the faith and credit or the taxing power of the City; no one seeking recourse under the Guaranty shall ever have the right to compel any exercise of any ad valorem taxing power of the City, directly or indirectly, to enforce such obligations.
  - (v) The City will have the option, but not the obligation, any time notice and demand is made upon the City to replenish the balance in the Reserve Fund to the Reserve Fund Requirement, to redeem all outstanding Bonds at a redemption price of 100% of the principal amount thereof, plus accrued interest, instead of replenishing or continuing to replenish the Reserve Fund. Subject to the foregoing, the City's obligation to replenish the Reserve Fund shall continue until such time as the Bonds are paid in full or legally defeased according to their terms.
4. Easement and Special Warranty Deed for Public Parking . The Developer will be responsible for retaining a contractor for construction of the Parking Garage and the CDD (defined below) will pay its pro rata share of construction costs attributable to the Public Parking component of the Parking Garage. Prior to commencement of construction of the Parking Garage, the CDD will be granted an easement for the construction of the Public Parking component of the Parking Garage. After the Parking Garage is constructed, the Developer will execute a

special warranty deed and any other appropriate instrument of conveyance to transfer its interest in the Public Parking component of the Parking Garage to the CDD. The City and the Developer agree to execute such appropriate documents as are necessary to effectuate such transfer, including a joinder, and obtain the subordination of the rights of third parties, to the easement of the CDD in the underlying land and the fee title to the facilities conveyed by special warranty deed comprising the public portion of the Parking Garage.

D. Community Development District

1. Formation of Community Development District ("CDD"). Community development districts in Florida are created through a petition which petition must include the eight items set forth in Florida Statutes §190.005(1)(a). Florida Statutes §190.005(2)(e) provides that in the case of a community development district of less than a 1,000 acres in size, that if all the land for the proposed district is in the territorial jurisdiction of a municipal corporation the petition requesting the creation of the CDD is filed with the municipal corporation.
2. Special Assessments. The security for special assessment bonds will include the net revenues from the Public Parking component of the Parking Garage as well as non-ad valorem special assessments and user fees. The CDD will levy special assessments on the Hotel and the Private Parking component of the Parking Garage pursuant to § 190.022 Florida Statutes using the procedures set forth in Chapter 170, Florida Statutes. The assessment lien shall not be a lien encumbrance on the fee interest of the City of Hollywood, nor on the leasehold interest of the Developer. Collection of the assessments shall be enforced pursuant to the provisions of Section 196.199(8), Florida Statutes, and to the extent applicable, Chapters 170, 173 and 197 Florida Statutes.
3. Ownership of Public Parking Following Payment of Bonds. Sections 190.046(4), (5) and (6), Florida Statutes provide a method for transfer of the Public Parking from the District to the City of Hollywood through adoption by the City of a non-emergency ordinance. Under existing law, the City must assume and guarantee debt, if any, of the CDD that is related to the Public Parking. The statute currently provides for no other consideration from the City. In addition, the City must demonstrate the ability of the City to provide the public parking service: (a) as efficiently as the CDD; (b) at a level of quality equal to or higher than the level of quality actually delivered by the CDD to the users of the Public Parking; and (c) at a charge equal to or lower than the actual charge by the CDD to Public Parking customers. No later than 30 days following the adoption of a transfer plan ordinance, the board of supervisors may file in the circuit court a petition seeking review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance. Upon the transfer of all of the services of the CDD to the City, the CDD shall be terminated in accordance with a plan of termination which shall be adopted by the board of supervisors and filed with the clerk of the circuit court.

In the event such transfer of the Public Parking to the City is completed as aforesaid, the Developer and the City shall execute such amendments to the ground lease(s) as are necessary or desirable to properly reallocate management responsibilities, procedures, and operating expenses concerning the Public Parking.

4. Validation of CDD Bonds. The CDD special assessment bonds will be subject to validation through judicial process under Chapter 75, Florida Statutes, prior to the delivery of possession by the City to the Developer of the Hotel and Parking Garage component of the Leased Property under the ground lease, other than the Developer Initial Parcel. It shall be the responsibility of Developer to cause the CDD to diligently undertake the said validation process at the CDD's sole cost and expense through a funding agreement with the Developer. In general, the court will hold a validation hearing 75 to 90 days after the filing of a validation complaint. The final judgment of the appropriate court shall include an order (the "CDD Bond Validation Order") validating and confirming the legality of the special assessment bonds, the ground lease, the Guaranty, and all other financing documents and agreements within the scope of the court's jurisdiction, and the legality of all proceedings in connection therewith. The CDD Bond Validation Order will be subject to a 30 day appeal period under Florida law.
5. Right of Eminent Domain. Pursuant to Section 190.011(11), Florida Statutes, the City will grant to the CDD by resolution the right of extraterritorial eminent domain within the geographical limits of the Hollywood Beach CRA, for water, sewer, district roads and water management, specifically including the power for taking of easements for drainage.
6. Interlocal Agreement. Upon its organization, the City and the CDD shall enter into an interlocal agreement which will embody the parties' agreements as follows:
  - a. The CDD will agree that it will not (i) refinance the special assessment bonds issued to finance the construction of the Public Parking, or (ii) issue any other bonds or debt instruments, without the prior written approval of the City, which may be granted or withheld by the City in its sole discretion.
  - b. At all times during the existence of the CDD the chief administrative officer of the City, or his or her designee, shall serve on the Board of Supervisors of the CDD. The Developer as landowner and the Board of Supervisors of the CDD shall take all actions necessary to assure the election of at least one (1) supervisor meeting the requirements of this paragraph.
  - c. The CDD shall submit its proposed annual budget to the Chief Administrative Officer of the City for his or her approval prior to final adoption for the sole purpose of determining whether the projected revenues including special assessments and net parking revenues will be sufficient to pay the annual debt service due in the fiscal year for which the final budget is to be adopted.

d. The limits of personal injury, property damage, and liability insurance to be procured by the CDD shall be subject to review and approval of the Chief Administrative Officer of the City, which review and approval shall be exercised in his or her commercially reasonable judgment. If permitted by the issuers of such policies, the City shall be named as an additional insured.

e. The Board of Supervisors shall establish parking rates for the public portion of the Parking Garage sufficient to cover the costs of operation, maintenance and debt service thereon. Subject to the requirements of the preceding sentence, the CDD will agree that such parking rates will reflect rates charged by parking facilities open to the public within the barrier island known as Hollywood Beach.

f. The CDD Board of Supervisors will adopt and implement the policies set forth in **Exhibit "G"** Parking Garage Standards that are applicable to it, with respect to the public portion of the Parking Garage, so long as such policies are consistent with the requirements of the Internal Revenue Code in order to preserve the tax exemption of the interest on the CDD's bonds.

g. Once the CDD Bonds are paid in full, the District agrees that the City shall have the right to dissolve the District and have the District transfer the Public Parking to the City pursuant to the provisions and requirements of Section 190.046 (4), (5), and (6), Florida Statutes as set forth in Section D.3. of this **Exhibit "K"**.

E. Summary of Financing Sources.

1. Private Financing. The Developer will obtain financing to construct the Hotel and the Private Parking component of the Parking Garage.
2. CDD Bonds. The proceeds from issuance of special assessment bonds will be used to acquire the Public Parking component of the Parking Garage. The Public Parking component of the Parking Garage will be sold and transferred to the CDD upon completion of the construction of the improvements. The bond obligations will remain in place as permanent financing upon completion of construction of the Public Parking component of the Parking Garage.

