

Downtown Investment Authority

AGENDA

City Hall at St. James, 117 W. Duval Street

Lynwood Roberts Room, 1st Floor

Wednesday, August 20, 2014 – 4:00 PM

MEMBERS:

Oliver Barakat, Chairman

Jack Meeks, Vice Chairman

Craig Gibbs, Secretary

Antonia “Tony” Allegretti, Board Member

James Bailey, Board Member

Melody S. Bishop, Board Member

Robert Clements, Board Member

Doris Goldstein, Board Member

Kay Harper-Williams, Board Member

I.	CALL TO ORDER – Chairman Barakat
	IA Pledge of Allegiance
II.	ACTION ITEMS - Chairman Barakat (✓ Requires DIA Action and/or Approval)
	II.A Approval of July 30, 2014 Regular Meeting Minutes
	II.B Resolution 2014-08-01: Unity Plaza Perpetual Public Open Space Easements and Maintenance Agreement (Amend and Restate)
	II.C Resolution 2014-08-02 Supporting the First Amendment to the Economic Development Agreement previously approved by Ordinance 2011-366-E between the City of Jacksonville and Parador Partners, LLC.
III.	DISCUSSION ITEMS – Chairman Barakat
	III.A Governance
	III.B CRA/BID Legislation Strategy
	III.C DIA Budget
IV.	DOWNTOWN BRIEFING – Jim Klement
	IV.A DDRB September 2014 Meeting Update
V.	OLD BUSINESS – Chairman Barakat
VI.	NEW BUSINESS – Chairman Barakat
VII.	PUBLIC COMMENTS – Chairman Barakat
VIII.	ADJOURNMENT – Chairman Barakat
	Next Scheduled Meeting: September, Date and Time To Be Determine

Staff Distribution:

Aundra Wallace, DIA Chief Executive Officer

Guy Parola, DIA Redevelopment Manager

Tom Daly, DIA Redevelopment Analyst

Susan Grandin, Office of General Counsel

Lawsikia Hodges, Office of General Counsel

Paul Crawford, OED, Deputy Director

Jim Klement, OED, DDRB

Alex Rudzinski, OED

DIA Council Liaison, Lori N. Boyer, Council Member District 5

Jack Shad, Public Parking Officer

Karen Underwood, DIA Executive Assistant

David DeCamp, Public Information Office



Downtown Investment Authority
Regular Meeting

City Hall at St. James
117 West Duval St., Lynwood Roberts Room

Wednesday, August 20, 2014 4:00 p.m.

DIA Meeting
MEETING MINUTES

Board Members Present: Oliver Barakat, Chairman; Jack Meeks, Vice Chairman; Melody Bishop; Tony Allegretti and Doris Goldstein and Kay Harper-Williams

Board Members Absent: Craig Gibbs, Secretary, Jim Bailey and Robert Clements

Office of General Counsel: Lawsikia Hodges and Susan Grandin

Council Member: Lori Boyer

Attendees: Aundra Wallace, DIA Chief Executive Officer; Guy Parola, DIA Redevelopment Manager; Tom Daly, DIA Redevelopment Analyst; Jim Klement, DDRB/OED; and Karen Underwood, DIA Executive Assistant

I. CALL TO ORDER

Chairman Barakat called the regular meeting to order at approximately 4:09 p.m. He suggested deferring the action items until a quorum was confirmed.

II. ACTION ITEMS

A. APPROVAL OF JULY 30, REGULAR MEETING MINUTES

The board deviated from the agenda and heard Discussions first until a quorum was confirmed

- Correction to page 1 to add Board Member Harper Williams to Board Members Absent
- Correction to page 2 bulleted comment regarding On-street parking discouraged to reflect Use of on-street parking is discouraged to City employees during the workday
- Correction page 2 Board Member Bishop provided scrivener's errors edits to Karen for correction.

A MOTION WAS MADE BY VICE CHAIRMAN MEEKS AND SECONDED BY BOARD MEMBER HARPER-WILLIAMS APPROVING THE JULY 20, 2014 DIA REGULAR MEETING MINUTES AS AMENDED THE MOTION PASSED UNANIMOUSLY 6-0

B. RESOLUTION 2014-08-01: RECOMMENDING THAT THE CITY COUNCIL AMEND AND RESTATE THE PERPETUAL PUBLIC OPEN SPACE EASEMENTS AND MAINTENANCE AGREEMENT ENTERED INTO BY THE CITY OF JACKSONVILLE AND HP/CSD PARTNERS, LLC, PURSUANT TO ORDINANCE

2012-270-E.

Guy Parola brought forward Resolution 2014-08-01 for the board's consideration.

Steve Diebenow, Driver, McAfee, Peek & Hawthorne, P.L. and John Sawyer, OGC presented the details of the amended and restated perpetual public open space easements and maintenance agreement and termination of easement. He also provided a handout the Unity Plaza Site plan and 2 sketches

The Board made relative comments regarding the agreement.

Jen Jones, Executive Director of Unity Plaza and Alex Coley, Hallmark Partner were present to answer any questions.

Chairman Barakat opened the floor for public comments.

John Nooney commented that he was in support of Resolution 2014-08-01

A MOTION WAS MADE BY VICE CHAIRMAN MEEKS AND SECONDED BY BOARD MEMBER GIBBS APPROVING RESOLUTION, 2014-08-01 SUMMARIZING THE AMENDMENT OF THE CERTIFICATE THE INSURANCE AND THE PARAGRAPH CHANGES TO 8.16, 2.22 8.17 THE MOTION PASSED UNANIMOUSLY 6-0.

CEO Wallace reported that Resolution 2014-08-02 was being deferred.

C. RESOLUTION 2014-08-02: SUPPORTING THE FIRST AMENDMENT (THE "FIRST AMENDMENT") TO THE ECONOMIC DEVELOPMENT AGREEMENT PREVIOUSLY APPROVED BY ORDINANCE 2011-355-E (THE "AGREEMENT") BETWEEN THE CITY OF JACKSONVILLE (THE "CITY"), AND PARADOR PARTNERS, LLC, AS SUBSEQUENTLY ASSIGNED TO PARADOR PARKING, LLC ("DEVELOPER"), FOR THE PURPOSE OF ELIMINATING THE SALE CLAWBACK SO AS TO AUTHORIZE THE SALE OF THE PROJECT PARCEL AND THE ASSIGNMENT OF THE AGREEMENT TO A PURCHASER OF THE PROJECT PARCEL; APPROVING AND AUTHORIZING THE MAYOR, OR HIS DESIGNEE, AND THE CORPORATION SECRETARY, TO EXECUTE THE FIRST AMENDMENT; AUTHORIZING THE EXECUTIVE DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT TO CONSENT TO SUCH ASSIGNMENTS IN HIS REASONABLE DISCRETION; PROVIDING AN EFFECTIVE DATE.

CEO Wallace brought forward Resolution 2014-08-03 to support Ordinance 2014-0305 for the board's consideration.

Guy Parola disclosed that he spoke with Paige Johnson, OGC regarding the pending Ordinance 2014-0305. It was requested that loading and unloading time be extended from 10 minutes to 30 minutes to allow safe loading and unloading of commercial vessels.

Chairman Barakat opened the floor for public comments.

John Nooney commented to the board to consider an emergency resolution to support an amendment to the legislation that would allow 10 minute commercial access to any existing and new docks, piers, kayak launches in the new 4.8 mile waterfront zone from the Fuller Warren to the Mathews Bridge.

D. RESOLUTION 2014-08-03: SUPPORTING ORDINANCE 2014-0305 TO CHANGE THE TIME LIMIT FOR DOCKING AT PEARL STREET FOR DESIGNATED PASSENGER LOADING AND UNLOADING ZONES FROM TEN MINUTES TO THIRTY MINUTES

The Board members made relative comments regarding Resolution 2014-08-03

A MOTION WAS MADE BY BOARD MEMBER ALLEGRETTI AND SECONDED BY BOARD MEMBER BISHOP TO APPROVE RESOLUTION 2014-08-03 AND TO INVITE COUNCIL MEMBER LOVE TO ATTEND THE NEXT DIA REGULAR BOARD MEETING. THE MOTION PASSED UNANIMOUSLY 6-0

III. DISCUSSION ITEMS –

A. GOVERNANCE

CEO Wallace disclosed that he spoke with Board Member Clements and he will begin attending the meetings.

The 3-member special committee that was appointed to Governance will meet on Thursday, September 18th at 3pm on the 3rd floor of City Hall at St. James in Conference room C.

B. CRA/BID LEGISLATION STRATEGY

CEO Wallace reported that now that the CRA, BID Plan legislation has been filed, it would be prudent to let the plan move through the committee structure process. Karen will begin to set up meetings with the Finance and RCDPHS Committee Members to brief them regarding the plan. The governance section will be revisited after the plans are moved through Council. Ordinance 2014-560 was introduced on August 12th and has been assigned to Finance and RCDPHS Committees.

The Board members made relative comments regarding Ordinance 2014-560

C. DIA BUDGET

CEO Wallace brought forth Council Auditor's office comments and recommendations to the Mayor's proposed FY 2014/15 Budget Downtown Investment Authority General Fund/ General Services District (S/F 011). He informed to the board that he will be attending the finance hearing tomorrow and will be advocating for a fiscal position and DDRB staff position.

Council Member Boyer pointed out that the budget at this point is a proposed budget and the budget that it [City Council] adopts is the adopted budget.

The board members made relative comments regarding the overall budget.

CEO Wallace provided a memo regarding the DIA Budget Priorities and staff's recommendation for Active Catalytic Sites with Undetermined Timeframes, Active Projects with Undetermined Timeframes, Northbank public investment project, and Southbank public investment projects funding prioritization.

The board members observed the handout and made relative comments regarding rankings of the Catalytic Sites, Catalytic projects, Northbank Public Projects, Northbank strategies; Northbank programs no upfront capital and Southbank public projects.

CEO Wallace presented the DIA FY 2014/2015 Proposed budget comparison.

The board members made relative comments regarding the handout

Council Member Boyer made a positive remark that the Riverplace Boulevard legislation was filed today and sponsored by her and Council Redman.

IV. DOWNTOWN BRIEFING

Jim Klement provided the DDRB update to the board and stated that the next meeting date will be held on Thursday, September 11, 2014 at 2:00 p.m.

V. OLD BUSINESS **None**

VI. NEW BUSINESS **None**

VII. PUBLIC COMMENTS

Dick Jackson commented that he attended the ULI meeting yesterday which lasted from 8:30 – 1:30 p.m. He addressed that there were 3 important projects listed Hemming Plaza, Shipyards and bicycling and transit.

John Nooney requested the board to consider an emergency resolution to support an amendment to active legislation 2014-305.

Board Member Allegretti informed the board that the opening of the Spark Grant art project will be held on September 12-14th during the Connection Festival. The Spark District grantee with ten of the selected works along with two sculptural bike racks will be placed within Main Street Park at 325 North Main Street, one at the Chamber of Commerce, one at Regions Bank at the corner of

Forsyth and Laura, 51 West Bay Street and one of the selected works will be placed at Hemming Park, along Duval Street.

CEO Wallace reported that Retail Enhancement program legislation will be deferred until the BID Plan is approved.

VIII. ADJOURNMENT

There being no further business, Chairman Barakat adjourned the meeting at approximately 7:27 p.m.

The next scheduled DIA Regular Board meeting is scheduled for Wednesday, September 17, 2014 at 4:00 p.m., in the Lynwood Roberts Room. CEO Wallace suggested moving the meeting up to 4:00 p.m., if possible.

Please note that all attachments referenced will be posted on the DIA website <http://www.coj.net/departments/downtown-investment-authority.aspx>

The written minutes for this meeting are only an overview of what was discussed. For verbatim comments of this meeting, an audio CD is available upon request. Please contact Karen Underwood, at (904) 630-3492, or by email at karenu@coj.net.

RESOLUTION 2014-08-01

A RESOLUTION OF THE DOWNTOWN INVESTMENT AUTHORITY (DIA) RECOMMENDING THAT THE CITY COUNCIL AMEND AND RESTATE THE PERPETUAL PUBLIC OPEN SPACE EASEMENTS AND MAINTENANCE AGREEMENT ENTERED INTO BY THE CITY OF JACKSONVILLE AND HP/CSD PARTNERS, LLC, PURSUANT TO ORDINANCE 2012-270-E.

WHEREAS, as the owners of contiguous parcels located at the intersection of Riverside Avenue and Forest Street (“Unity Plaza”), the City of Jacksonville and HP/CSD Partners, LLC, entered into a Perpetual Public Open Space Easements and Maintenance Agreement, as authorized by Ordinance 2012-270-E; and

WHEREAS, pursuant to the Perpetual Public Open Space Easements and Maintenance Agreement entered into by the City of Jacksonville and HP/CSD Partners, LLC, the City-owned portion of Unity Plaza would be maintained in perpetuity by HP/CSD Partners, LLC, or their assigns; and

WHEREAS, in consideration of HP/CSD Partners, LLC, maintaining City owned lands within Unity Plaza, the City will make a one-time payment of \$750,000 to HP/CSD Partners, LLC, or their assigns, as the City’s contribution towards such perpetual maintenance costs; and

WHEREAS, HP/CSD Partners, LLC, conveyed their portion of Unity Plaza to Unity Plaza Real Estate Holding, LLC (“Owner”); and

WHEREAS, City and Owner desire to amend and restate the Perpetual Public Open Space Easements and Maintenance Agreement (the “Amended and Restated Easement”) to allow for the installation of three (3), semi-permanent kiosks on the City owned portion of Unity Plaza, to be used by Owner for the sale of food and alcoholic and non-alcoholic beverages and other goods and merchandise in connection with events held at Unity Plaza, and to clarify maintenance obligations in connection with the public restroom easement granted by Owner to City, all as set forth in the Amended and Restated Easement; and

WHEREAS, HP/CSD Partners and Unity Plaza Real Estate Holding, LLC, have requested that the City amend and restate the Perpetual Public Open Space Easements and Maintenance Agreement.

BE IT RESOLVED, By the Downtown Investment Authority:

Section 1. The DIA finds that the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. The DIA respectfully submits and recommends that the City Council amend and restate the Perpetual Public Open Space Easements and Maintenance Agreement, included as Exhibit 1 to Resolution 2014-08-01.

Section 3. This Resolution 2014-08-01 shall become effective upon its approval by the DIA this _____th day of August, 2014.

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY

Oliver Barakat, Chairman

VOTE: In Favor: _____ Opposed: _____ Abstained: _____

FORM APPROVAL:

Office of General Counsel

ATTACHMENT RESOLUTION 2014-08-01

Prepared by and Return to

John C. Sawyer, Jr., Esq.
Office of General Counsel
117 West Duval Street Suite 480
Jacksonville, FL 32202

AMENDED AND RESTATED PERPETUAL PUBLIC OPEN SPACE EASEMENTS AND MAINTENANCE AGREEMENT AND TERMINATION OF EASEMENT

THIS AGREEMENT (the "Agreement") is made as of this ____ day of _____, 2014, by and among the **CITY OF JACKSONVILLE**, a municipal corporation ("City") and **HP/CSD PARTNERS, LLC**, a Florida limited liability company ("Developer") and **UNITY PLAZA REAL ESTATE HOLDING, LLC**, a Florida limited liability company ("Owner").

RECITALS:

A. As authorized by Ordinance 2012-270-E, City, Developer and Owner executed a Perpetual Public Open Space Easements and Maintenance Agreement dated _____, 2014 and recorded in Official Records Book ____, Page ____, of the Public Records of Duval County, Florida (the "Easement Agreement"), whereby the City and Owner granted cross-easements over their respective, adjacent parcels so the Owner can maintain and operate a unified, public, urban park over City's and Owner's parcels.

B. Developer and Owner have requested City to amend the Easement Agreement to authorize the installation of by Developer and/or Owner of up to three (3), semi-permanent kiosks to be utilized by Owner for the sale of food and alcoholic and non-alcoholic beverages and other goods and merchandise, and to clarify the parties obligations and usage of the Public Restroom Access Parcel, as defined herein.

C. The City is the owner of a parcel of land depicted on **Exhibit A-1** and legally described on **Exhibit A-2** attached hereto and made a part hereof (the "City Parcel") on which is located public open space surrounding a stormwater facility (the "Stormwater Facility").

D. Owner is the fee simple title owner of a parcel of land depicted on **Exhibit B-1** ("Owner's Public Open Space Parcel") and legally described on **Exhibit B-2**, which parcel is contiguous with the City Parcel, and on which parcel Developer has constructed certain public open space improvements in conjunction with its construction of contiguous public open space improvements on the City Parcel. Owner is also the fee simple owner of the parcel of land depicted on **Exhibit C-1** and legally described on **Exhibit C-2** (the "Public Restroom Access Parcel") and together with the Owner's Public Open Space Parcel and the City Parcel, the "Public Open Space"). The Public Open Space is for the use and enjoyment of the public, and City and Owner have agreed it is in their mutual best interests that the Public Open Space should be operated and maintained by Owner and/or Owner and other nearby landowners as integrated

parcels of land so that the operations, programming and aesthetic integrity of the area can be maintained.

C. The Public Open Space is part of the City Park System providing pedestrian access over and through the downtown and Brooklyn area which the City desires to promote and which enhances the livability of the entire Northbank area.

D. The City, Developer and Owner have agreed to amend and restate the Easement Agreement in accordance with the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Grants of Easements.

- 1.1. Easement Benefitting Owner's Parcel. The City hereby grants to Owner, its successors, assigns, agents, contractors and employees a non-exclusive perpetual easement over and across the City Parcel for the purpose of performing all of the maintenance as described herein. Such easement rights granted in this section 1.1 are for the benefit of and appurtenant to the Owner Parcel.
- 1.2. Easement Benefitting City Parcel. The Owner hereby grants to City, its successors, assigns, agents, contractors and employees a non-exclusive perpetual easement over and across the Owner Public Open Space Parcel for the purpose of enabling City to perform the maintenance as described herein, in the event of Owner's default as described in Section 6.2. Such easement rights granted in this section 1.2 are for the benefit of and appurtenant to the City Parcel.
- 1.3. Pedestrian Access and Use Easement. The Owner shall simultaneously with the execution of this Agreement execute and deliver to City a non-exclusive perpetual easement over the Owner Public Open Space Parcel for the purpose of pedestrian ingress, egress and passage, and for the general use and enjoyment by the public of the Owner Public Open Space Parcel, in the form attached as **Exhibit D** ("Public Access Easement").
- 1.4. Public Restroom Access Easement. Owner hereby grants to the City for the benefit of the public, a perpetual, non-exclusive easement in, on, over and across the Public Restroom Access Parcel, for the purpose of pedestrian ingress and egress onto the Public Restroom Access Parcel, and for the use thereof by the public of the Public Restroom Access Parcel as a restroom facility.
 - 1.4.1. Owner, and any person permitted to use the restroom facilities pursuant to the terms of this Agreement, shall not unreasonably interfere with the use and enjoyment of the Public Restroom Access Easement, provided, however, that temporary obstructions or closures to and within all or a part of the restroom facilities subject to the Public Restroom Access Easement, resulting from weather conditions, a public safety emergency declared by any government

official or agency, remodeling and/or repair of the building improvements through and in which the Public Restroom Access Easement are located, any other circumstances beyond the reasonable control of Owner, or as may be necessary for the performance of maintenance, repair, replacement or other maintenance obligations required hereunder, shall be permitted. Except as may be permitted pursuant to the previous sentence, no permanent barriers, fences, dividers or other obstructions shall be constructed which prevent, prohibit, impede or discourage the reasonable use of the restroom facilities subject to the this Agreement.

2. Use and Maintenance; 50 Year Maintenance Obligation.

2.1. The Owner covenants and agrees for itself, its successors and assigns that it shall for a period of 50 years from the date of this Agreement perpetually maintain all portions of the Public Open Space in a manner that (i) provides for the orderly and efficient use and operation of the Public Open Space, and (ii) causes the Public Open Space to look attractive and well maintained, including without limitation the following:

- 2.1.1. Regular mowing, fertilizing, pruning and maintenance of all landscaping installed within the Public Open Space.
- 2.1.2. Planting and replacing of plants shrubs and trees in accordance with prudent landscaping policies.
- 2.1.3. Repair and replacement of all hardscaping or other improvements within the Public Open Space, excluding the Stormwater Facility improvements.
- 2.1.4. Cleaning, sweeping and maintaining all pavement and walkways, litter and rubbish removal from the Public Open Space.
- 2.1.5. Maintain lighting and any other equipment or devices.
- 2.1.6. Repair, maintain and replace as necessary all improvements constituting the restroom facilities, including but not limited to cleaning restrooms no less than daily, removing all trash, restocking of all restroom supplies, including all paper products and soap, cleaning of all horizontal and vertical surfaces and replacing lighting as necessary.

The foregoing maintenance standards shall not be less than the City's maintenance standards from time to time for City parks of comparable quality to the Public Open Space.

2.2. Owner shall have the right to

- 2.2.1. Schedule and arrange for events and gatherings in the Public Open Space in accordance with applicable law.
- 2.2.2. Adopt rules and regulations for the use of the Public Open Space subject to approval by the Executive Director of the City's Office of Economic

Development after consultation with the City Director of Recreation and Community Services.

- 2.2.3. Subject to any governmental requirements and in accordance with all laws, rules and regulations attendant to the same, Owner may, at its sole cost and expense, construct, build, install, maintain, repair, improve and operate semi-permanent structures (up to three (3) buildings, each not to exceed _____ square feet and _____ square feet in the aggregate) (collectively, the “Kiosks”) to be utilized for the sale of food and alcoholic and non-alcoholic beverages and certain goods and services and/or renting or licensing the right to operate such semi-permanent buildings, kiosks and stands to third party vendors for the sale of goods and services, over, on, upon and across the City Parcel; and, at its sole cost and expense, construct, build, install, maintain and use of utilities (whether such utilities currently exist or not), including, but not limited to, gas, electricity, water, garbage and sewer utilities, within the City Parcel which shall run with the land and bind the interest of the City, its successors and assigns. Owner shall bear the cost and expense of the construction, repair and maintenance of such semi-permanent Kiosks as well as the cost and expense of installation of any new hook ups (or the expansion of existing utilities on the Public Open Space as of the date of this Agreement) for utilities for such Kiosks. Should Owner elect to install any Kiosks on the City Parcel, such installation shall be subject to the prior review and approval of City, which shall not be unreasonably conditioned, withheld, or delayed, and such installations shall not interfere with City’s use of the City Parcel or use, maintenance and operation of the Stormwater Facility. Owner shall not be obligated to pay to City any rent in connection with the construction, installation or operation of the Kiosks.

3. Cost of Maintenance.

- 3.1. The City shall make a one-time payment in the amount of \$750,000.00 to Owner in consideration of the Owner's agreement to undertake the perpetual maintenance of the Public Open Space and other good and valuable consideration, which shall be disbursed upon completion of the improvements in the Public Open Space in accordance with the terms of the Infrastructure Costs Disbursement Agreement between the City, Hallmark Partners, Inc., Owner and 200 Riverside, LLP, a Florida limited liability partnership, dated December 31, 2007, as amended and restated by the Amended and Restated Infrastructure Costs Disbursement Agreement dated October 10, 2012. As a condition to such payment, Developer shall provide to the City a performance bond, or such other method of assurance approved by the Chief Executive Officer of the Downtown Investment Authority in his sole discretion and in a form satisfactory to the City, guaranteeing the Owner’s performance under this Agreement during its term; provided however that if Owner consistently maintains the Public Open Space in the manner required herein, as determined by the City Director of Public Works, for a period of at least 10 years from the date of this Agreement, then the Owner will be released from any further obligation to provide such performance bond after such date.

3.2. With the exception of the foregoing payment by the City, the Owner shall perform the obligations set forth herein at its own cost and expense.

3.3. The City shall not be obligated to maintain or repair the Public Open Space or any improvements to the same, so long as the payment described in Section 3.1 is made.

4. **Encroachments.** The Public Open Space is subject to non-exclusive easements reserved over the entire Public Open Space for minor encroachments, presently in existence or which occur in the future, which will not in the City's reasonable opinion interfere with the use and operation of the Public Open Space, created by the construction, reconstruction, renovation, settling, shifting, or other causes of movement and for overhangs. Notwithstanding the foregoing, no encroachment shall adversely affect (i) the design, maintenance or function of the Stormwater Facility in accordance with its applicable stormwater permit, or (ii) the use and operation of the Public Open Space.

5. **Insurance and Indemnity.** Without modifying the parties' common law rights and obligations to each other and to third parties, the Owner agrees to name the City as an additional insured in the commercial general liability policy Owner shall maintain in connection with the Public Open Space with such coverage amounts as are commercially reasonable based upon the intended use of the Public Open Space. To the extent that (i) the Owner fails to obtain written approval from the City for Owner's actions or omissions in connection with the operation or maintenance of the Public Open Space or (ii) Owner obtains such written approval but its actions or omissions are negligent or otherwise tortious, Owner agrees to indemnify and hold harmless the City and its agents, representatives, officers, employees and assigns, from and against all loss, cost, damage and expense (including without limitation reasonable attorneys' fees and costs) incurred in connection with any act or omission of Owner or its agents, representatives, officers, employees or assigns, related to this Agreement or the maintenance and operation of the Public Open Space. City is not responsible and Owner Indemnifies City for any legal action taken due to the sale of alcohol to an underage person and over-dispensing to adults. During the term of this Agreement, Company shall comply with all governmental requirements which govern or affect the Kiosks and the use thereof and/or the sale, provisions or consumption of alcoholic beverages. In the event alcoholic beverages are sold, served or consumed on the Public Open Space, Owner shall also maintain liquor liability insurance or such other policies as reasonably required by the City's Risk Management Division, naming the City as an additional insured thereunder. Any third party licensing the Kiosks shall do so pursuant to a written license agreement between Owner and the third party, and such party shall provide the foregoing insurance as required by the City, naming the City as an additional insured.

6. **Default.**

6.1. Each of the following shall constitute an event of default (each, an "**Event of Default**") hereunder:

6.1.1. A breach by any party of any term, covenant, condition, obligation or agreement under this Agreement, and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to such party,

provided, however, that if such breach is not reasonably susceptible to cure within 30 days, then the time to cure such breach shall be extended to ninety (90) days so long as the defaulting party is diligently and in good faith pursuing such cure. If the defaulting party objects to the claim within the above 30 day cure period, the parties will negotiate in good faith in an attempt to resolve the dispute and the parties may agree to mediate the dispute if the default cannot reasonably be cured within the above cure periods. Upon failure of such negotiations or mediation, either of which may be terminated by either party upon written notice, the parties shall have all rights available at law or in equity and the City will have the rights under below Section 6.2.

- 6.1.2. The entry of a decree or order by a court having jurisdiction in the premises adjudging the defaulting party a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the such party under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of such party or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days; or
 - 6.1.3. The institution by any party of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of such party of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.
- 6.2. Upon or at any time after the occurrence of an Event of Default, subject to the notice, cure and dispute provisions set forth above:
- 6.2.1. City may undertake Owner's maintenance obligations hereunder and Owner shall reimburse the City for the City's costs in maintaining the Public Open Space under the maintenance terms set forth in this Agreement. In such event, the City shall provide a periodic invoice to Owner for such maintenance costs and Owner shall pay the invoice amount to the City within 30 days after receipt of such invoice. If the Owner fails to timely pay such invoice amount, interest will accrue on the unpaid amount at the highest lawful rate from the invoice date until the date paid. The City shall be entitled to pre-judgment interest on all amounts owed to the City hereunder.
 - 6.2.2. The City may additionally terminate all of Owner's rights (including without limitation Owner's easement rights), but not Owner's obligations, under this

Agreement; provided however that (i) the above provisions of Section 6.2.1 obligating Owner to pay for the ongoing maintenance of the Public Open Space shall survive such termination, and shall bind Owner, and its successors and assigns, including all future owners of Owner's property during the 50 year term of Owner's maintenance obligations hereunder, and (ii) the easements granted herein by Owner to City are perpetual easements and shall survive any such termination of Owner's rights resulting from any default by Owner hereunder. Upon any such termination, City shall be entitled to record in the public records a notice of termination of Owner's rights hereunder.

6.2.3. In the event the Owner's rights are terminated or otherwise expire as provided hereby, upon the request of City, Owner shall have sixty (60) days to remove, at its sole cost and expense, any semi-permanent buildings, kiosks or stands erected or installed on the City Parcel, returning the City Parcel to its original, as is condition, reasonable wear and tear excepted. After such sixty (60) day period, ownership of any semi-permanent buildings, kiosks, utilities and any other installations made by Owner or its successors or assigns on the City Parcel shall become the property of the City.

7. **Termination of Existing Easements or Agreement.** In consideration of the easements and other consideration being mutually provided between all of the parties hereto, the City and Owner hereby agree and state that that certain Perpetual Public Open Space Easements and Maintenance Agreement dated as of _____, 2014, between City and HP/CSD Partners, LLC, and Unity Plaza Real Estate Holding, LLC, recorded in Official Records Book _____, Page ___ in the Current Public Records of Duval County, Florida, along with any and all rights, obligations, title or interests created therein, shall be terminated and cancelled in its entirety upon the recordation of this Agreement in the Official Public Records of Duval County, Florida.

8. **General**

8.1. **Notice.** Any notice provided for in this Agreement shall be served personally or shall be mailed by registered or certified mail to a party, at the address of such party as set forth in the records of the Secretary of State or other such address as each party provides to the other party. Each such notice shall be in writing and shall be delivered either by personally delivering it by hand or Federal Express or similar courier service to the person to whom notice is directed, or by depositing it with the United States Postal Service, certified mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention). Such notice shall be deemed delivered at the time of personal delivery or, if mail, when it is deposited as provided above, but the time period in which a response to any such notice must be given or any action taken with respect thereto shall commence to run from the date it is personally delivered or, if mailed, the date of receipt of the notice by the addressee thereof, as evidenced by the return receipt. Rejection or other refusal by the addressee to accept the notice shall be deemed to be receipt of the notice. In addition, the inability to deliver the notice because of a change of address of the party of which no

notice was given to the other party as provided below shall be deemed to be the receipt of the notice sent.

- 8.2. Amendment. This Agreement may be amended upon the duly authorized written consent of the City and the Owner, any amendment to this Agreement shall become effective upon recordation, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Agreement.
- 8.3. Duration and Termination. Although the Owner's maintenance obligations hereunder shall continue for a period of 50 years, this Agreement also contains perpetual easement rights. With the exception of the termination of Owner's rights upon default under this Agreement including without limitation the termination of Owner's easements rights, as described in section 6.2.2, the easement rights granted herein are not terminable except with the mutual consent of the City and the Owner.
- 8.4. Liens. In the event that any construction lien or liens are filed by any contractors, subcontractors, laborers, surveyors, engineers, or any other party providing or claiming to have provided materials or services to Developer or Owner, Developer or Owner, as applicable, shall, within thirty (30) days after duly receiving written notice of the lien, either satisfy the lien or liens of record, or transfer such lien or liens to a bond in accordance with Florida Statutes Section 713.24. In the event that such lien or liens of record are not satisfied or secured, or the lien or liens are not transferred to a bond as aforesaid, within the time specified herein, the City shall have the right, in addition to its other rights and remedies at law or in equity, to itself transfer the lien or liens to a bond, whereupon the Developer or Owner, as applicable, shall within fifteen (15) days, reimburse the City for all expenses directly incurred in connection therewith, including without limitation, any reasonable attorney's fees, costs and pre-judgment interest from the date the same are advanced by the City.
- 8.5. Enforcement. These easements are made for the benefit of the City and Owners and the obligations created hereunder may be enforced by any of the foregoing by any means available at law or in equity.
- 8.6. Binding Effect; Covenants Running with the Land. This Agreement shall be binding upon and shall inure to the benefit of the City and the Owner, and the Owner's successors and assigns. The obligations and covenants of Owner hereunder (i) constitute covenants running with the Owner's Parcel, (ii) touch and concern the Owner's Parcel, and benefit the City's Public Open Space, and (iii) bind all future owners of Owner's Parcel as if such future owners were parties to this Agreement in the place of Owner.
- 8.7. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

- 8.8. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Agreement to any party shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Agreement are declared to be severable.
- 8.9. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.
- 8.10. Time is of the Essence. Time is of the essence in the performance by any party of its obligations hereunder.
- 8.11. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.
- 8.12. Waivers. All waivers, amendments or modifications of this Agreement must be in writing and signed by all parties. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, or any other rights or remedies for the same default or any other default by the other party.
- 8.13. Independent Contractor. In the performance of this Agreement, Owner will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer or association of City. Owner and its employees or agents or contractors shall be solely responsible for the means method, technique, sequences and procedures utilized by Owner in the performance of this Agreement.
- 8.14. Exemption of City. Neither this Agreement nor the obligations imposed upon City hereunder shall be or constitute an indebtedness of City within the meaning of any constitutional, statutory or charter provisions requiring City to levy ad valorem taxes nor a lien upon any properties of City.
- 8.15. Venue; Applicable Law; Attorneys' Fees. All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Duval County, Florida, or in the U.S. District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement. Each party shall be responsible for its own attorneys' fees and costs related to this Agreement.
- 8.16. Contract Administration. The City's Director of Public Works or his or her designee, shall act as the designated representatives of City to coordinate communications

between City and Owner regarding the administration of this Agreement and to otherwise coordinate and facilitate the performance of the obligations of City under this Agreement.

8.17. Authority to Monitor Compliance. The City's Director of Public Works or his or her designee shall have the authority (at no cost to the Owner) to monitor compliance by the Owner with this Agreement.

8.18. Discrimination. The Owner shall not discriminate against any person, or group of persons, on account of race, color, creed, sex, age, religion, national origin, marital status, handicap, having children or ancestry in the use, occupancy, maintenance, tenure or enjoyment of all or any part of the Public Open Space, nor shall the Owner or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with the reference to the selection, location, number, use of occupancy of contractors, subcontractors or vendees.

8.19. Civil Rights. Owner agrees to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of City Ordinance Code, and further agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin

9. Maximum Indebtedness; Availability of Funds. The total maximum indebtedness of City for all costs pursuant to this Agreement is the payment of \$750,000.00 as described in Section 3.1 herein. Notwithstanding anything to the contrary herein, the City's financial obligation under this Agreement is subject to the availability of lawfully appropriated funds. In the event the foregoing payment described in Section 3.1 is not made, the Owners' maintenance obligations hereunder shall terminate and all maintenance obligations pertaining to the City parcel shall be assumed by the City. For purposes of clarity, the parties hereto acknowledge that in the event the construction of the improvements in the Public Open Space are completed and the payment referenced in Section 3.1 of the Easement Agreement has been paid prior to the execution and recording of this Agreement, then there is no obligation of City to make the payment referenced in Section 3.1 of this Agreement.

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IN WITNESS WHEREOF, the undersigned set their hands and seals as of the date first above written.

Witnesses:

CITY OF JACKSONVILLE

Print Name: _____

By: _____
Alvin Brown, Mayor

Print Name: _____

Attest:

James R. McCain, Jr.,
Corporation Secretary

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by Alvin Brown, as Mayor, and James R. McCain, Jr., as Corporation Secretary, of the City of Jacksonville, who are personally known to me or have produced _____ as Identification.

(SEAL)

Notary Public-State of _____
Commission Number: _____

IN COMPLIANCE WITH the Charter of City of Jacksonville, I do certify that there is or will be an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement in accordance with the terms and conditions thereof and that provision has been made for the payment of the monies provided therein to be paid.

Director of Finance

Form Approved:

Office of General Counsel

Witnesses:

HP/CSD PARTNERS, LLC
A Florida limited liability company

Print Name: _____

By: _____
Print Name: _____

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____, _____, by _____, the manager of HP/CSD Partners, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as Identification.

Notary Public-State of _____
Commission Number: _____

Witnesses:

UNITY PLAZA REAL ESTATE
HOLDINGS, LLC
a Florida limited liability company

Print Name: _____

By: _____
Print Name: _____

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, by _____, the manager of Unity Plaza Real Estate Holdings, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as Identification.

Notary Public-State of _____
Commission Number: _____

RESOLUTION 2014-08-02

A RESOLUTION SUPPORTING THE FIRST AMENDMENT (THE “FIRST AMENDMENT”) TO THE ECONOMIC DEVELOPMENT AGREEMENT PREVIOUSLY APPROVED BY ORDINANCE 2011-366-E (THE “AGREEMENT”) BETWEEN THE CITY OF JACKSONVILLE (THE “CITY”), AND PARADOR PARTNERS, LLC, AS SUBSEQUENTLY ASSIGNED TO PARADOR PARKING, LLC (“DEVELOPER”), FOR THE PURPOSE OF ELIMINATING THE SALE CLAWBACK SO AS TO AUTHORIZE THE SALE OF THE PROJECT PARCEL AND THE ASSIGNMENT OF THE AGREEMENT TO A PURCHASER OF THE PROJECT PARCEL; APPROVING AND AUTHORIZING THE MAYOR, OR HIS DESIGNEE, AND THE CORPORATION SECRETARY, TO EXECUTE THE FIRST AMENDMENT; AUTHORIZING THE EXECUTIVE DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT TO CONSENT TO SUCH ASSIGNMENTS IN HIS REASONABLE DISCRETION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Downtown Investment Authority (“DIA”) has been designated by the City of Jacksonville as the Community Redevelopment Agency (“CRA”) for community redevelopment areas within the boundaries of Downtown pursuant to Ordinance 2012-364-E; and

WHEREAS, pursuant to authority granted in Ordinance 2011-336 E, the City of Jacksonville (“City”) and the Jacksonville Economic Development Commission (“JEDC”), now the Office of Economic Development (“OED”) entered into an Economic Development Agreement dated November 21, 2011, with the Developer, which provided for a payment of a \$3,500,000 grant to Developer upon completion of the construction and opening of a multi-story 500 plus space parking structure at the southeast corner of Bay and Hogan Streets; and

WHEREAS, the Developer has indicated it may wish to sell the Project Parcel in the future, and wishes to do so without violating the sale clawback provisions in Section 7.2.2 of the Agreement, and has requested the deletion of that provision from the Agreement; and

WHEREAS, the DIA has reviewed the request submitted by the Developer for amendment of the Agreement as described herein, and, based upon the contents of the First Amendment, has determined the First Amendment and the uses contemplated therein to be in the public interest, and has determined that the public actions contemplated in the First Amendment take into account and give consideration to the long-term public interests and public interest benefits to be achieved by the City.

BE IT RESOLVED, by the Downtown Investment Authority:

Section 1. The DIA finds that the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. The DIA supports the First Amendment to the Economic Development Agreement entered into pursuant to Ordinance 2011-336 E.

Section 3. This resolution shall become effective upon its approval by the DIA this 17th day of September 2014.

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY

Oliver Barakat, Chairman

VOTE: In Favor: _____ Opposed: _____ Abstained: _____

FORM APPROVAL:

Office of General Counsel

RESOLUTION 2014-08-03

A RESOLUTION SUPPORTING ORDINANCE 2014-0305 TO CHANGE THE TIME LIMIT FOR DOCKING AT PEARL STREET FOR DESIGNATED PASSENGER LOADING AND UNLOADING ZONES FROM TEN MINUTES TO THIRTY MINUTES.

WHEREAS, the City has designated temporary docking sites on the Northbank, Southbank Riverwalk, in front of the Jacksonville Landing and Metropolitan Park Marina; and

WHEREAS, there is currently a 10-minute loading and unloading time limitation; and

WHEREAS, in order to allow for safe loading and unloading of commercial vessels requires a longer period of time.

BE IT RESOLVED, by the Downtown Investment Authority:

Section 1. The DIA finds that the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. The DIA supports Ordinance 2014-0305.

Section 3. This resolution shall become effective upon its approval by the DIA this 20th day of August 2014.

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY

Oliver Barakat, Chairman

VOTE: In Favor: _____ Opposed: _____ Abstained: _____

FORM APPROVAL:

Office of General Counsel